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House of Representatives

The House was not in session today. Its next meeting will be held on
Monday, July 22, 2002, at 12:30 p.m. for morning hour debates.

CONFERENCE REPORT ON H.R. 4775, 2002 SUPPLEMENTAL APPROPRIA- TIONS ACT FOR FURTHER RE- COVERY FROM AND RESPONSE TO TERRORIST ATTACKS ON THE UNITED STATES

Pursuant to the order of the House of Thursday, July 18, 2002, Mr. YOUNG of Florida submitted the following conference report and statements on the bill (H.R. 4775) making supplemental appropriations for further recovery from and response to terrorist attacks on the United States for the fiscal year ending September 30, 2002, and for other purposes:

CONFERENCE REPORT (H. REPT. 107-593)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4775) "making supplemental appropriations for further recovery from and response to terrorist attacks on the United States for the fiscal year ending September 30, 2002, and for other purposes" having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert:

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2002, and for other purposes, namely:

TITLE I—SUPPLEMENTAL APPROPRIATIONS CHAPTER 1

DEPARTMENT OF AGRICULTURE OFFICE OF THE SECRETARY

(INCLUDING TRANSFERS OF FUNDS)

For an additional amount for "Office of the Secretary", \$18,000,000, to remain available until expended: *Provided*, That the Secretary shall transfer these funds to the Agricultural Research Service, the Animal and Plant Health Inspection Service, the Agricultural Marketing Service, and/or the Food Safety and Inspection

Service: *Provided further*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the entire amount shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

AGRICULTURAL RESEARCH SERVICE

SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses", \$8,000,000, to remain available until September 30, 2003: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the entire amount shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

BUILDINGS AND FACILITIES

For an additional amount for "Buildings and Facilities", \$25,000,000, to remain available until expended.

COOPERATIVE STATE RESEARCH, EDUCATION, AND EXTENSION SERVICE

EXTENSION ACTIVITIES

For an additional amount for "Extension Activities", \$6,000,000, to remain available until September 30, 2003: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the entire amount shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses", \$33,000,000, to remain available until September 30, 2003: *Provided*, That this amount shall include assistance in state efforts to prevent and control transmissible spongiform encephalopathy, including chronic wasting disease and scrapie, in farmed and free-ranging animals: *Provided further*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the entire amount shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

FOOD SAFETY AND INSPECTION SERVICE

For an additional amount for "Food Safety and Inspection Service", \$13,000,000, to remain available until September 30, 2003: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the entire amount shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

NATURAL RESOURCES CONSERVATION SERVICE

WATERSHED AND FLOOD PREVENTION OPERATIONS

For an additional amount for "Watershed and Flood Prevention Operations", for emergency recovery operations, \$144,000,000, to remain available until expended: *Provided*, That of this amount, \$50,000,000 is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That \$50,000,000 shall be available only to the extent an official

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.



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budget request, that includes designation of \$50,000,000 as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

RURAL DEVELOPMENT

RURAL COMMUNITY ADVANCEMENT PROGRAM

For an additional amount for "Rural Community Advancement Program" for emergency purposes for grants and loans as authorized by 7 U.S.C. 381E(d)(2), 306(a)(14), and 306C, \$20,000,000, with up to \$5,000,000 for contracting with qualified organization(s) to conduct vulnerability assessments for rural community water systems, to remain available until expended: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That the entire amount shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

RURAL UTILITIES SERVICE

LOCAL TELEVISION LOAN GUARANTEE PROGRAM ACCOUNT

(INCLUDING RESCISSION)

Of funds made available under this heading for the cost of guaranteed loans, including the cost of modifying loans as defined in section 502 of the Congressional Budget Act of 1974, \$20,000,000 are rescinded.

For an additional amount for "Local Television Loan Guarantee Program Account", \$8,000,000, to remain available until expended.

FOOD AND NUTRITION SERVICE

SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC)

For an additional amount for "Special Supplemental Nutrition Program for Women, Infants, and Children (WIC)", \$75,000,000, to remain available until September 30, 2003: Provided, That of the amounts provided under this heading, the Secretary shall allocate funds, notwithstanding section 17(i) of the Child Nutrition Act of 1966, as amended, in the manner and under a formula the Secretary deems necessary to respond to caseload requirements.

FOOD STAMP PROGRAM

(RESCISSION)

Of funds which may be reserved by the Secretary for allocation to State agencies under section 16(h)(1) of the Food Stamp Act of 1977 to carry out the Employment and Training program, \$24,000,000 are rescinded and returned to the Treasury.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

FOOD AND DRUG ADMINISTRATION

SALARIES AND EXPENSES

For an additional amount for "Food and Drug Administration, Salaries and Expenses", \$17,000,000, to remain available until expended: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of such Act: Provided further, That the entire amount shall be available only to the extent an official budget request, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

GENERAL PROVISIONS—THIS CHAPTER

SEC. 101. Of the funds made available for the Export Enhancement Program, pursuant to section 301(e) of the Agricultural Trade Act of 1978, as amended by Public Law 104-127, not more than \$33,000,000 shall be available in fiscal year 2002.

SEC. 102. ASSISTANCE TO AGRICULTURAL PRODUCERS WHO HAVE USED WATER FOR IRRIGATION FROM THE RIO GRANDE. (a) IN GENERAL.—The Secretary of Agriculture shall use \$10,000,000 of the funds of the Commodity Credit Corporation to make a grant to the State of Texas, acting through the Texas Department of Agriculture, to provide assistance to agricultural producers in the State of Texas with farming operations along the Rio Grande who have suffered economic losses during the 2001 crop year due to the failure of Mexico to deliver water to the United States in accordance with the Treaty Relating to the Utilization of Waters of the Colorado and Tijuana Rivers and of the Rio Grande, and Supplementary Protocol signed November 14, 1944, signed at Washington on February 3, 1944 (59 Stat. 1219; TS 944).

(b) AMOUNT.—The amount of assistance provided to individual agricultural producers under this section shall be proportional to the amount of actual losses described in subsection (a) that were incurred by the producers.

SEC. 103. Not later than 14 days after the date of enactment of this Act, the Secretary of Agriculture shall carry out the transfer of funds under section 2507(a) of the Food Security and Rural Investment Act of 2002 (Public Law 107-171).

SEC. 104. (a) RESCISSION.—The unobligated balances of authority available under section 2108(a) of Public Law 107-20 are rescinded prior to the end of fiscal year 2002.

(b) APPROPRIATION.—There is appropriated to the Secretary of Agriculture an amount equal to the unobligated balance rescinded by subsection (a) for expenses through fiscal year 2003 under the Agricultural Trade Development and Assistance Act of 1954, as amended (7 U.S.C. 1721-1726a) for commodities supplied in connection with dispositions abroad pursuant to title II of said Act.

SEC. 105. Section 416(b)(7)(D)(iv) of the Agricultural Act of 1949 (7 U.S.C. 1431(b)(7)(D)(iv)) is amended by striking "subsection." and inserting in lieu thereof the following: "subsection, or to otherwise carry out the purposes of this subsection."

SEC. 106. Notwithstanding any other provision of law and effective on the date of enactment of this Act, the Secretary may use an amount not to exceed \$12,000,000 from the amounts appropriated under the heading "Food Safety and Inspection Service" under the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (Public Law 106-387) to liquidate over-obligations and over-expenditures of the Food Safety and Inspection Service incurred during previous fiscal years, approved by the Director of the Office of Management and Budget based on documentation provided by the Secretary of Agriculture.

CHAPTER 2

DEPARTMENT OF JUSTICE

GENERAL ADMINISTRATION

SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses" for expenses resulting from the September 11, 2001, terrorist attacks, \$6,750,000: Provided, That such sums as are necessary shall be derived from the Working Capital Fund for the development, testing, and deployment of a standards-based, integrated, interoperable computer system for the Immigration and Naturalization Service ("Chimera system"), to be managed by Justice Management Division: Provided further, That of the amounts made available under this heading, \$1,000,000 shall only be for the Entry Exit System, to be managed by the Justice Management Division: Provided further, That none of the funds appropriated in this Act, or in Public Law 107-117, for the Immigration and Naturalization Service's Entry Exit System may be obligated until the INS submits a plan for expenditure that (1) meets the capital planning and investment control review require-

ments established by the Office of Management and Budget, including OMB Circular A-11, part 3; (2) complies with the acquisition rules, requirements, guidelines, and systems acquisition management practices of the Federal Government; (3) is reviewed by the General Accounting Office; and (4) has been approved by the Committees on Appropriations: Provided further, That funds provided under this heading shall only be available for obligation and expenditure in accordance with the procedures applicable to reprogramming notifications set forth in section 605 of Public Law 107-77: Provided further, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That \$1,000,000 shall be available only to the extent an official budget request that includes designation of the \$1,000,000 as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

SALARIES AND EXPENSES, UNITED STATES ATTORNEYS

(RESCISSION)

Of the amounts made available under this heading in Public Law 107-77, \$7,000,000 are rescinded.

SALARIES AND EXPENSES, UNITED STATES MARSHALS SERVICE

For an additional amount for "Salaries and Expenses" for emergency expenses resulting from the September 11, 2001, terrorist attacks, \$37,900,000, to remain available until expended: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That the entire amount shall be available only to the extent that an official budget request, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

FEDERAL PRISONER DETENTION (RESCISSION)

Of the amounts made available under this heading in Public Law 107-77, \$30,000,000 are rescinded.

ASSETS FORFEITURE FUND (RESCISSION)

Of the unobligated balances available under this heading, \$5,000,000 are rescinded.

FEDERAL BUREAU OF INVESTIGATION SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses" for emergency expenses resulting from the September 11, 2001, terrorist attacks, \$175,000,000, to remain available until September 30, 2004: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That \$165,000,000 shall be available only to the extent that an official budget request that includes designation of the \$165,000,000 as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

IMMIGRATION AND NATURALIZATION SERVICE SALARIES AND EXPENSES

ENFORCEMENT AND BORDER AFFAIRS

For an additional amount for "Salaries and Expenses, Enforcement and Border Affairs" for emergency expenses resulting from the September 11, 2001, terrorist attacks, \$81,250,000, to remain available until expended, of which \$25,000,000 shall only be available for fleet management: Provided, That the entire amount is

designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That \$46,250,000 shall be available only to the extent that an official budget request that includes designation of the \$46,250,000 as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

CONSTRUCTION

For an additional amount for "Construction" for emergency expenses resulting from the September 11, 2001, terrorist attacks, \$32,100,000, to remain available until expended: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That the entire amount shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

FEDERAL PRISON SYSTEM

BUILDINGS AND FACILITIES

(RESCISSION)

Of the amounts made available under this heading in Public Law 107-77 for buildings and facilities, \$5,000,000 are rescinded.

OFFICE OF JUSTICE PROGRAMS

JUSTICE ASSISTANCE

(INCLUDING RESCISSION)

For an additional amount for "Justice Assistance" for grants, cooperative agreements, and other assistance authorized by sections 819 and 821 of the Antiterrorism and Effective Death Penalty Act of 1996 and section 1014 of the USA PATRIOT Act (Public Law 107-56) and for other counter-terrorism programs, including first responder training and equipment to respond to acts of terrorism, including incidents involving weapons of mass destruction or chemical or biological weapons, \$151,300,000, to remain available until expended: Provided, That no funds under this heading shall be used to duplicate the Federal Emergency Management Agency Fire Grant program: Provided further, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That the entire amount shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

Of the amounts made available under this heading for the Office of the Assistant Attorney General for Office of Justice Programs, \$600,000 are rescinded.

COMMUNITY ORIENTED POLICING SERVICES

For an amount to establish the Community Oriented Policing Services' Interoperable Communications Technology Program in consultation with the Office of Science and Technology within the National Institute of Justice, and the Bureau of Justice Assistance, for emergency expenses for activities related to combating terrorism by providing grants to States and localities to improve communications within, and among, law enforcement agencies, \$50,000,000, to remain available until expended: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That the entire

amount shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

DEPARTMENT OF COMMERCE AND

RELATED AGENCIES

RELATED AGENCIES

OFFICE OF THE UNITED STATES TRADE

REPRESENTATIVE

SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses" for emergency expenses for increased security requirements, \$1,100,000, to remain available until expended: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That the entire amount shall be available only to the extent that an official budget request, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

DEPARTMENT OF COMMERCE

BUREAU OF THE CENSUS

PERIODIC CENSUSES AND PROGRAMS

(RESCISSION)

Of the amounts made available under this heading in prior fiscal years, excepting funds designated for the Suitland Federal Center, \$11,300,000 are rescinded.

NATIONAL INSTITUTE OF STANDARDS AND

TECHNOLOGY

SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES

For an additional amount for "Scientific and Technical Research and Services" for emergency expenses resulting from new homeland security activities and increased security requirements, \$37,100,000, of which \$20,000,000 is for a cybersecurity initiative: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That \$33,100,000 shall be available only to the extent an official budget request that includes designation of the \$33,100,000 as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

NATIONAL OCEANIC AND ATMOSPHERIC

ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES

(INCLUDING RESCISSION)

For an additional amount for "Operations, Research, and Facilities" for emergency expenses resulting from homeland security activities, \$4,800,000, of which \$2,000,000 is to address critical mapping and charting backlog requirements and \$2,800,000 is for backup capability for National Oceanic and Atmospheric Administration critical satellite products and services, to remain available until September 30, 2003: Provided, That \$2,800,000 is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That \$2,800,000 shall be available only to the extent an official budget request that includes designation of the \$2,800,000 as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

Of the unobligated balances remaining under this heading as provided by section 817 of Public Law 106-78, \$8,100,000 are rescinded.

PROCUREMENT, ACQUISITION AND CONSTRUCTION

For an additional amount for "Procurement, Acquisition and Construction" for emergency expenses resulting from homeland security activities, \$7,200,000 for a supercomputer backup, to remain available until September 30, 2003: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That the entire amount shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

FISHERIES FINANCE PROGRAM ACCOUNT

Funds provided under the heading, "Fisheries Finance Program Account" for the direct loan program authorized by the Merchant Marine Act of 1936, as amended, are available to subsidize gross obligations for the principal amount of direct loans not to exceed \$5,000,000 for Individual Fishing Quota loans, and not to exceed \$19,000,000 for Traditional loans.

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses" for emergency expenses resulting from new homeland security activities, \$400,000: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

THE JUDICIARY

SUPREME COURT OF THE UNITED STATES

CARE OF THE BUILDING AND GROUNDS

For an additional amount for "Care of the Building and Grounds" for emergency expenses for security upgrades and renovations of the Supreme Court building, \$10,000,000, to remain available until expended: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

COURTS OF APPEALS, DISTRICT COURTS, AND

OTHER JUDICIAL SERVICES

SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses" for emergency expenses to enhance security and to provide for extraordinary costs related to terrorist trials, \$7,115,000, to remain available until expended: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That \$3,972,000 shall be available only to the extent that an official budget request that includes designation of the \$3,972,000 as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

DEPARTMENT OF STATE AND RELATED

AGENCY

DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

DIPLOMATIC AND CONSULAR PROGRAMS

For an additional amount for "Diplomatic and Consular Programs", for emergency expenses for activities related to combating international terrorism, \$47,450,000, to remain available until September 30, 2003: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS

For an additional amount for "Educational and Cultural Exchange Programs", for emergency expenses for activities related to combating international terrorism, \$15,000,000, to remain available until expended: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That \$5,000,000 shall be available only to the extent an official budget request that includes designation of the \$5,000,000 as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

EMBASSY SECURITY, CONSTRUCTION, AND MAINTENANCE

For an additional amount for "Embassy Security, Construction, and Maintenance", for emergency expenses for activities related to combating international terrorism, \$210,516,000, to remain available until expended: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That \$10,000,000 shall be available only to the extent an official budget request that includes designation of the \$10,000,000 as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

INTERNATIONAL ORGANIZATIONS AND CONFERENCES

CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

For an additional amount for "Contributions to International Organizations", for emergency expenses for activities related to combating international terrorism, \$7,000,000, to remain available until September 30, 2003: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

For an additional amount for "Contributions for International Peacekeeping Activities" to make United States peacekeeping payments to the United Nations at a time of multilateral cooperation in the war on terrorism, \$23,034,000: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

RELATED AGENCY

BROADCASTING BOARD OF GOVERNORS

INTERNATIONAL BROADCASTING OPERATIONS

For an additional amount for "International Broadcasting Operations", for emergency expenses for activities related to combating international terrorism, \$7,400,000, to remain available until September 30, 2003: Provided, That funds appropriated by this paragraph shall be available notwithstanding sections 308(c) and 313 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995: Provided further, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

BROADCASTING CAPITAL IMPROVEMENTS

For an additional amount for "Broadcasting Capital Improvements" for emergency expenses for activities related to combating international terrorism, \$7,700,000, to remain available until expended: Provided, That funds appropriated by

this paragraph shall be available notwithstanding section 313 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995.

RELATED AGENCIES

DEPARTMENT OF TRANSPORTATION

MARITIME ADMINISTRATION

MARITIME GUARANTEED LOAN (TITLE XI) PROGRAM ACCOUNT

(RESCISSION)

Of the unobligated balances available under this heading, \$5,000,000 are rescinded.

SECURITIES AND EXCHANGE COMMISSION

SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses" to respond to increased needs for enforcement and oversight of corporate finance, \$30,900,000 from fees collected in fiscal year 2002, to remain available until expended.

In addition, for an additional amount for "Salaries and Expenses" for emergency expenses resulting from the September 11, 2001, terrorist attacks, \$9,300,000, to remain available until expended: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That the entire amount shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

GENERAL PROVISIONS—THIS CHAPTER

SEC. 201. Funds appropriated by this Act for the Broadcasting Board of Governors and the Department of State may be obligated and expended notwithstanding section 15 of the State Department Basic Authorities Act of 1956, as amended.

SEC. 202. Section 286(e)(3) of the Immigration and Nationality Act (8 U.S.C. 1356(e)(3)) is amended—

(1) by striking "is authorized to" and inserting "shall"; and

(2) by striking "authorization" and inserting "requirement".

SEC. 203. (a)(1) During fiscal year 2002 and each succeeding fiscal year, notwithstanding any provision of the Federal Rules of Criminal Procedure to the contrary, in order to permit victims of crimes associated with the terrorist acts of September 11, 2001, to watch trial proceedings in the criminal case against Zacarias Moussaoui, the trial court in that case shall order, subject to paragraph (3) and subsection (b), closed circuit televising of the trial proceedings to convenient locations the trial court determines are reasonably necessary, for viewing by those victims.

(2)(A) As used in this section and subject to subparagraph (B), the term "victims of crimes associated with the terrorist acts of September 11, 2001" means individuals who—

(i) suffered direct physical harm as a result of the terrorist acts that occurred in New York, Pennsylvania and Virginia on September 11, 2001 (hereafter in this section "terrorist acts") and were present at the scene of the terrorist acts when they occurred, or immediately thereafter; or

(ii) are the spouse, legal guardian, parent, child, brother, or sister of, or who as determined by the court have a relationship of similar significance to, an individual described in subparagraph (A)(i), if the latter individual is under 18 years of age, incompetent, incapacitated, has a serious injury, or disability that requires assistance of another person for mobility, or is deceased.

(B) The term defined in paragraph (A) shall not apply to an individual who participated or conspired in one or more of the terrorist acts.

(3) Nothing in this section shall be construed to eliminate or limit the district court's discretion to control the manner, circumstances, or availability of the broadcast where necessary to control the courtroom or protect the integrity of the trial proceedings or the safety of the trial participants. The district court's exercise of such discretion shall be entitled to substantial deference.

(b) Except as provided in subsection (a), the terms and restrictions of section 235(b), (c), (d) and (e) of the Antiterrorism and Effective Death Penalty Act of 1996 (42 U.S.C. 10608(b), (c), (d), and (e)), shall apply to the televising of trial proceedings under this section.

SEC. 204. Title II of Public Law 107-77 is amended in the second undesignated paragraph under the heading "Department of Commerce, National Institute of Standards and Technology, Industrial Technology Services" by striking "not to exceed \$60,700,000 shall be available for the award of new grants" and inserting "not less than \$60,700,000 shall be used before October 1, 2002 for the award of new grants".

SEC. 205. None of the funds appropriated or otherwise made available by this Act or any other Act may be used to implement, enforce, or otherwise abide by the Memorandum of Agreement signed by the Federal Trade Commission and the Antitrust Division of the Department of Justice on March 5, 2002.

SEC. 206. Public Law 106-256 is amended in section 3(f)(1) by striking "within 18 months of the establishment of the Commission" and inserting "by June 20, 2003".

SEC. 207. The American Section, International Joint Commission, United States and Canada, is authorized to receive funds from the United States Army Corps of Engineers for the purposes of conducting investigations, undertaking studies, and preparing reports in connection with a reference to the International Joint Commission on the Devils Lake project mentioned in Public Law 106-377.

SEC. 208. Section 282(a)(2)(D) of the Agricultural Marketing Act of 1946 is amended to read as follows:

"(D) in the case of wild fish, is—

"(i) harvested in the United States, a territory of the United States, or a State, or by a vessel that is documented under chapter 121 of title 46, United States Code, or registered in the United States; and

"(ii) processed in the United States, a territory of the United States, or a State, including the waters thereof, or aboard a vessel that is documented under chapter 121 of title 46, United States Code, or registered in the United States; and".

SEC. 209. Of the amounts appropriated in Public Law 107-77, under the heading "Department of Commerce, National Oceanic and Atmospheric Administration, Operations, Research, and Facilities", for coral reef programs, \$2,500,000, for a cooperative agreement with the National Defense Center of Excellence for Research in Ocean Sciences to conduct coral mapping in the waters of the Hawaiian Islands and the surrounding Exclusive Economic Zone in accordance with the mapping implementation strategy of the United States Coral Reef Task Force.

SEC. 210. In addition to amounts appropriated or otherwise made available by this Act or any other Act, \$11,000,000 is appropriated to enable the Secretary of Commerce to provide economic assistance to fishermen and fishing communities affected by Federal closures and fishing restrictions in the New England groundfish fishery, to remain available until September 30, 2003.

SEC. 211. In addition to amounts appropriated or otherwise made available by this Act or any other Act, \$5,000,000 shall be provided for a National Oceanic and Atmospheric Administration cooperative research program in Massachusetts, New Hampshire, Maine and Rhode Island, to remain available until expended: Provided, That

of this amount \$500,000 shall be for the cost of a reduction loan as authorized under sections 1111 and 1112 of title XI of the Merchant Marine Act, 1936, (46 U.S.C. App. 1279g) to carry out a New England groundfish fishing capacity reduction program under section 312(b) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1861a(b)) that shall—

(1) permanently revoke all fishery licenses, fishery permits, area and species endorsements, and any other fishery privileges issued to a vessel or vessels (or to persons on the basis of their operation or ownership of that vessel or vessels) removed under the program; and

(2) ensure that vessels removed under the program are made permanently ineligible to participate in any fishery worldwide, and that the owners of such vessels will operate only under the United States flag or be scrapped as a reduction vessel pursuant to section 600.1011(c) of title 50, Code of Federal Regulations.

SEC. 212. Of the amounts appropriated in Public Law 107-77, under the heading "Department of Commerce, National Oceanic and Atmospheric Administration, Operations, Research, and Facilities", for Oregon groundfish cooperative research, \$500,000 shall be for the cost of a reduction loan as authorized under sections 1111 and 1112 of title XI of the Merchant Marine Act, 1936 (46 U.S.C. App. 1279f and 1279g) to carry out a West Coast groundfish fishing capacity reduction program under section 312(b) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1861a(b)) that shall—

(1) permanently revoke all fishery licenses, fishery permits, area and species endorsements, and any other fishery privileges issued to a vessel or vessels (or to persons on the basis of their operation or ownership of that vessel or vessels) removed under the program; and

(2) ensure that vessels removed under the program are made permanently ineligible to participate in any fishery worldwide, and that the owners of such vessels will operate only under the United States flag or be scrapped as a reduction vessel pursuant to section 600.1011(c) of title 50, Code of Federal Regulations.

SEC. 213. Amounts appropriated by title V of Public Law 107-77 under the heading "NATIONAL VETERANS BUSINESS DEVELOPMENT CORPORATION" (115 Stat. 795) shall remain available until expended.

CHAPTER 3

DEPARTMENT OF DEFENSE

MILITARY PERSONNEL

MILITARY PERSONNEL, AIR FORCE

For an additional amount for "Military Personnel, Air Force", \$206,000,000: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, ARMY

For an additional amount for "Operation and Maintenance, Army", \$209,000,000, to remain available for obligation until September 30, 2003: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That \$102,000,000 shall be available only to the extent that an official budget request, that includes designation of \$102,000,000 as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

OPERATION AND MAINTENANCE, NAVY

For an additional amount for "Operation and Maintenance, Navy", \$48,750,000, to remain

available for obligation until September 30, 2003: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That \$12,250,000 shall be available only to the extent that an official budget request, that includes designation of \$12,250,000 as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

OPERATION AND MAINTENANCE, AIR FORCE

For an additional amount for "Operation and Maintenance, Air Force", \$65,510,000, to remain available for obligation until September 30, 2003: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That \$24,510,000 shall be available only to the extent that an official budget request, that includes designation of \$24,510,000 as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

OPERATION AND MAINTENANCE, DEFENSE-WIDE

For an additional amount for "Operation and Maintenance, Defense-Wide", \$721,975,000, to remain available for obligation until September 30, 2003, of which \$390,000,000 may be used, notwithstanding any other provision of law, for payments to reimburse Pakistan, Jordan, and other key cooperating nations for logistical and military support provided to United States military operations in connection with the Global War on Terrorism: Provided, That such payments may be made in such amounts as the Secretary may determine in his discretion, based on documentation determined by the Secretary to adequately account for the support provided, in consultation with the Director of the Office of Management and Budget and 15 days following notification to the appropriate Congressional committees: Provided further, That such determination shall be final and conclusive upon the accounting officers of the United States: Provided further, That amounts for such payments shall be in addition to any other funds that may be available for such purpose: Provided further, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

DEFENSE EMERGENCY RESPONSE FUND

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for the "Defense Emergency Response Fund", \$11,901,900,000, to remain available for obligation until September 30, 2003, of which \$77,900,000 shall be available for enhancements to North American Air Defense Command capabilities: Provided, That the Secretary of Defense may transfer the funds provided herein only to appropriations for military personnel; operation and maintenance; procurement; research, development, test and evaluation; the Defense Health Program; Overseas Humanitarian, Disaster, and Civic Aid; and working capital funds: Provided further, That notwithstanding the preceding proviso, \$120,000,000 of the funds provided in this paragraph are available for transfer to any other appropriations accounts of the Department of Defense, for certain classified activities, and notwithstanding any other provision of law and of this Act, such funds may be obligated to carry out projects not otherwise authorized by law: Provided further, That any funds transferred shall be merged with and shall be available for the same purposes and for the same time period as the appropriation to which transferred: Provided further, That the transfer authority pro-

vided in this paragraph is in addition to any other transfer authority available to the Department of Defense: Provided further, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: Provided further, That during the current fiscal year, upon a determination by the Secretary of Defense that funds previously made available to the "Defense Emergency Response Fund" are required to meet other essential operational or readiness requirements of the military services, the Secretary may transfer up to \$275,000,000 of funds so required to the appropriate funds or appropriations of the Department of Defense, 15 days after notification to the congressional defense committees: Provided further, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That \$601,900,000 shall be available only to the extent that an official budget request that includes designation of \$601,900,000 as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

PROCUREMENT

OTHER PROCUREMENT, ARMY

For an additional amount for "Other Procurement, Army", \$79,200,000, to remain available for obligation until September 30, 2004: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

AIRCRAFT PROCUREMENT, NAVY

For an additional amount for "Aircraft Procurement, Navy", \$22,800,000, to remain available for obligation until September 30, 2004: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

PROCUREMENT OF AMMUNITION, NAVY AND MARINE CORPS

For an additional amount for "Procurement of Ammunition, Navy and Marine Corps", \$262,000,000, to remain available for obligation until September 30, 2004: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

OTHER PROCUREMENT, NAVY

For an additional amount for "Other Procurement, Navy", \$2,500,000, to remain available for obligation until September 30, 2004: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

PROCUREMENT, MARINE CORPS

For an additional amount for "Procurement, Marine Corps", \$3,500,000, to remain available for obligation until September 30, 2004: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

AIRCRAFT PROCUREMENT, AIR FORCE

For an additional amount for "Aircraft Procurement, Air Force", \$118,000,000, to remain available for obligation until September 30, 2004: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced

Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That \$25,000,000 shall be available only to the extent that an official budget request, that includes designation of \$25,000,000 as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

PROCUREMENT OF AMMUNITION, AIR FORCE

For an additional amount for "Procurement of Ammunition, Air Force", \$115,000,000, to remain available for obligation until September 30, 2004: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

OTHER PROCUREMENT, AIR FORCE

For an additional amount for "Other Procurement, Air Force", \$747,840,000, to remain available for obligation until September 30, 2004: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

PROCUREMENT, DEFENSE-WIDE

For an additional amount for "Procurement, Defense-Wide", \$104,425,000, to remain available for obligation until September 30, 2004: Provided, That funds may be used to purchase two vehicles required for physical security of personnel, notwithstanding price limitations applicable to passenger vehicles, but not to exceed \$175,000 per vehicle: Provided further, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That \$4,925,000 shall be available only to the extent an official budget request, that includes designation of \$4,925,000 as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY

For an additional amount for "Research, Development, Test and Evaluation, Army", \$8,200,000, to remain available for obligation until September 30, 2003: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY

For an additional amount for "Research, Development, Test and Evaluation, Navy", \$9,000,000, to remain available for obligation until September 30, 2003: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE

For an additional amount for "Research, Development, Test and Evaluation, Air Force", \$198,400,000, to remain available for obligation until September 30, 2003: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That \$137,600,000 shall be available only to the extent that an official budget request, that includes designation of \$137,600,000 as an emergency requirement as defined in the Balanced Budget and Emergency

Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE

For an additional amount for "Research, Development, Test and Evaluation, Defense-Wide", \$67,000,000, to remain available for obligation until September 30, 2003: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

GENERAL PROVISIONS—THIS CHAPTER

SEC. 301. (a) The appropriation under the heading "Research, Development, Test and Evaluation, Navy" in the Department of Defense Appropriations Act, 2002 (Public Law 107-117) is amended by adding the following proviso immediately after "September 30, 2003": " ". Provided, That funds appropriated in this paragraph which are available for the V-22 may be used to meet unique requirements of the Special Operations Forces". (b) The amendment made by subsection (a) shall be effective as if enacted as part of the Department of Defense Appropriations Act, 2002.

SEC. 302. During the current fiscal year, the restrictions contained in subsection (d) of 22 U.S.C. 5952 and section 502 of the Freedom Support Act (Public Law 102-511) shall not apply if the President certifies in writing to the Speaker of the House of Representatives and the President pro tempore of the Senate that waiving such restrictions is important to the national security interests of the United States.

SEC. 303. Funds appropriated by this Act, or made available by the transfer of funds in this Act, for intelligence activities are deemed to be specifically authorized by the Congress for purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414): Provided, That any funds appropriated or transferred to the Central Intelligence Agency for agent operations or covert action programs authorized by the President under section 503 of the National Security Act of 1947, as amended, shall remain available until September 30, 2003.

SEC. 304. (a) Funds appropriated to the Department of Defense for fiscal year 2002 for operation and maintenance under the heading "Chemical Agents and Munitions Destruction, Army", may be used to pay for additional costs of international inspectors from the Technical Secretariat of the Organization for the Prohibition of Chemical Weapons, pursuant to Articles IV and V of the Chemical Weapons Convention, for inspections and monitoring of Department of Defense sites and commercial sites that perform services under contract to the Department of Defense, resulting from the Department of Defense's program to accelerate its chemical demilitarization schedule.

(b) Expenses which may be paid under subsection (a) include—

(1) salary costs for performance of inspection and monitoring duties;

(2) travel, including travel to and from the point of entry into the United States and international United States travel;

(3) per diem, not to exceed United Nations rates and in compliance with United Nations conditions for per diem for that organization; and

(4) expenses for operation and maintenance of inspection and monitoring equipment.

SEC. 305. (a)(1) In fiscal year 2002, funds available to the Department of Defense for assistance to the Government of Colombia shall be available to support a unified campaign against narcotics trafficking, against activities by organizations designated as terrorist organizations such as the Revolutionary Armed Forces of Colombia (FARC), the National Liberation Army (ELN), and the United Self-Defense Forces of Colombia (AUC), and to take actions to protect human health and welfare in emergency cir-

cumstances, including undertaking rescue operations.

(2) The provision shall also apply to unexpired balances and assistance previously provided from prior years' Acts available for purposes identified in subsection (a)(1).

(3) The authority in this section is in addition to authorities currently available to provide assistance to Colombia.

(b) The authorities provided in subsection (a) shall not be exercised until the Secretary of Defense certifies to the Congress that the provisions of section 601(b) of this Act have been complied with.

(c) Sections 556, 567, and 568 of Public Law 107-115, section 8093 of the Department of Defense Appropriations Act, 2002, and the numerical limitations on the number of United States military personnel and United States individual civilian contractors in section 3204(b)(1) of Public Law 106-246, as amended, shall be applicable to funds made available pursuant to the authority contained in subsection (a).

(d) No United States Armed Forces personnel or United States civilian contractor employed by the United States will participate in any combat operation in connection with assistance made available under this chapter, except for the purpose of acting in self defense or rescuing any United States citizen to include United States Armed Forces personnel, United States civilian employees, and civilian contractors employed by the United States.

SEC. 306. In addition to amounts appropriated or otherwise made available elsewhere in this Act for the Department of Defense or in the Department of Defense and Emergency Supplemental Appropriations for Recovery from and Response to Terrorist Attacks on the United States Act, 2002 (Public Law 107-117), \$75,000,000, to remain available until September 30, 2003, is hereby appropriated to the Department of Defense under the heading "Chemical Agents and Munitions Destruction, Army" for Research, development, test and evaluation, for the purpose of accelerating chemical agent destruction at Department of Defense facilities: Provided, That the entire amount made available in this section is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That the entire amount shall be available only to the extent that an official budget request, that includes designation of the entire amount as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

(RESCISSIONS)

SEC. 307. Of the funds available in Department of Defense Appropriations Acts or otherwise available to the Department of Defense, the following funds are hereby rescinded, from the following accounts in the specified amounts:

"Other Procurement, Air Force", 2001/2003, \$12,500,000;

"Missile Procurement, Air Force", 2002/2004, \$11,600,000;

"Other Procurement, Air Force", 2002/2004, \$52,500,000;

"Procurement, Defense-Wide", 2002/2004, \$30,000,000; and

"Research, Development, Test and Evaluation, Air Force", 2002/2003, \$56,500,000.

SEC. 308. During the current fiscal year and hereafter, section 2533a of title 10, United States Code, shall not apply to any transaction entered into to acquire or sustain aircraft under the authority of section 8159 of the Department of Defense Appropriations Act, 2002 (division A of Public Law 107-117; 115 Stat. 2284).

SEC. 309. The Secretary of the Army shall obligate and expend the \$2,000,000 appropriated for the Army by Public Law 107-117 for procurement of smokeless nitrocellulose under Activity

1, instead of under Activity 2, Production Base Support Industrial Facilities, for the purpose of preserving a commercially owned and operated capability of producing defense grade nitrocellulose at the rate of at least 10,000,000 pounds per year in order to preserve a commercial manufacturing capability for munitions precursor supplies for the High Zone Modular Artillery Charge System and to preserve competition in that manufacturing capability.

SEC. 310. Not later than 15 days after the date of the enactment of this Act, the Secretary of Defense shall obligate, from funds made available in title II of division A of Public Law 107-117 under the heading "Operation and Maintenance, Defense-Wide" (115 Stat. 2233), \$4,000,000 for a grant to support the conversion of the Naval Security Group, Winter Harbor (the naval base on Schoodic Peninsula), Maine, to utilization as a research and education center for Acadia National Park, Maine, including the preparation of a plan for the reutilization of the naval base for such purpose that will benefit communities in the vicinity of the naval base and visitors to Acadia National Park and will stimulate important research and educational activities.

SEC. 311. Of the amount available for fiscal year 2002 for the Army National Guard for operation and maintenance, \$2,200,000 shall be made available for the Army National Guard for information operations, information assurance operations, and training for such operations.

(RESCISSION)

SEC. 312. Of the funds provided under the heading, "Emergency Response Fund", in Public Law 107-38 that were not subject to subsequent enactment and not subject to the restrictions of the fifth proviso of that Act, and subsequently transferred to "Defense Emergency Response Fund", \$224,000,000 of unobligated amounts are hereby rescinded.

(RESCISSION)

SEC. 313. Of the unobligated funds available in titles III and IV of the Department of Defense Appropriations Act, 2002, \$226,000,000, reflecting savings from revised economic assumptions, shall be rescinded within 15 days of enactment of this Act: Provided, That this reduction shall be applied on a pro-rata basis to each appropriations account in said titles, and to each line item, program element, project, subproject, and activity within each such account.

CHAPTER 4

DISTRICT OF COLUMBIA

FEDERAL FUNDS

FEDERAL PAYMENT TO THE CHILDREN'S NATIONAL MEDICAL CENTER

For a Federal payment to the Children's National Medical Center in the District of Columbia for implementing the District Emergency Operations Plan, \$10,000,000, to remain available until September 30, 2003, of which \$8,000,000 shall be for the expansion of quarantine facilities, and \$2,000,000 shall be for the establishment of a decontamination facility for children and families: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That the entire amount shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA

For a Federal payment to the District of Columbia to implement the District Emergency Operations Plan, \$23,000,000, to remain available until December 1, 2003, of which \$12,000,000 is for public safety expenses related to security

events in the District of Columbia: Provided, That the Chief Financial Officer of the District of Columbia shall provide a report, within 15 days of an expenditure, to the Committees on Appropriations of the House of Representatives and Senate, detailing any expenditure of these funds: Provided further, That \$5,000,000 is for the Unified Communications Center: Provided further, That \$6,000,000 is for the construction of containment facilities and other activities to support the regional Bioterrorism Hospital Preparedness Program at the Washington Hospital Center: Provided further, That beginning October 1, 2002, the Chief Financial Officer of the Washington Hospital Center shall provide quarterly reports to the Committees on Appropriations of the House of Representatives and Senate, detailing the expenditure of these funds: Provided further, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That the entire amount shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

FEDERAL PAYMENT TO THE WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY

For a Federal payment to the Washington Metropolitan Area Transit Authority, \$8,000,000, to remain available until September 30, 2003, to contribute to the creation of a regional transportation back-up operations control center: Provided, That the General Manager of the Washington Metropolitan Area Transit Authority shall submit a plan for the future financing of a regional transportation back-up operations control center no later than February 5, 2003 to the Committees on Appropriations of the House of Representatives and Senate: Provided further, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That the entire amount shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

FEDERAL PAYMENT TO THE METROPOLITAN WASHINGTON COUNCIL OF GOVERNMENTS

For a Federal payment to the Metropolitan Washington Council of Governments, \$1,750,000, to remain available until September 30, 2003, for support of the Regional Incident Communication and Coordination System, as approved by the Council: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That the entire amount shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

FEDERAL PAYMENT TO THE WATER AND SEWER AUTHORITY OF THE DISTRICT OF COLUMBIA

For a Federal payment to the Water and Sewer Authority of the District of Columbia for emergency preparedness, \$1,250,000, to remain available until September 30, 2003, for remote monitoring of water quality: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended:

Provided further, That the entire amount shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

FEDERAL PAYMENT FOR FAMILY COURT ACT (INCLUDING RESCISSION)

Of the funds appropriated under this heading in the District of Columbia Appropriations Act, 2002 (Public Law 107-96; 115 STAT. 929), \$700,000 made available for the Mayor of the District of Columbia are rescinded.

For a Federal payment to the Mayor of the District of Columbia for carrying out the District of Columbia Family Court Act of 2001, \$700,000, to remain available until September 30, 2003, of which \$200,000 shall be for completion of a plan by the Mayor on integrating the computer systems of the District of Columbia government with the Family Court of the Superior Court of the District of Columbia: Provided, That \$500,000 of such amount provided to the Mayor shall be for the Child and Family Services Agency to be used for social workers to implement Family Court reform: Provided further, That the availability of these funds shall be subject to the reporting and availability requirements under this heading in the District of Columbia Appropriations Act, 2002 (Public Law 107-96; 115 Stat. 929).

DISTRICT OF COLUMBIA FUNDS

OPERATING EXPENSES

DIVISION OF EXPENSES

The following amounts are appropriated for the District of Columbia for the current fiscal year out of the general fund of the District of Columbia.

For public safety expenses related to security events in the District of Columbia, \$12,000,000, to remain available until December 1, 2003.

For construction of containment facilities and other activities to support the regional Bioterrorism Hospital Preparedness Program at the Washington Hospital Center, \$6,000,000, to remain available until December 1, 2003.

For the Unified Communications Center, \$5,000,000, to remain available until December 1, 2003.

For carrying out the District of Columbia Family Court Act of 2001, \$700,000, to remain available until September 30, 2003.

GOVERNMENTAL DIRECTION AND SUPPORT

The paragraph under this heading in the District of Columbia Appropriations Act, 2002 (Public Law 107-96; 115 Stat. 933) is amended by striking: "Provided further, That not less than \$353,000 shall be available to the Office of the Corporation Counsel to support increases in the Attorney Retention Allowance:" and inserting: "Provided further, That not less than \$353,000 shall be available to the Office of the Corporation Counsel to support attorney compensation consistent with performance measures contained in a negotiated collective bargaining agreement:".

PUBLIC SAFETY AND JUSTICE

(RESCISSION)

Notwithstanding any other provision of law, of the local funds appropriated under this heading to the Department of Corrections for support of the Corrections Information Council in the District of Columbia Appropriations Act, 2002 (Public Law 107-96; 115 Stat. 935), \$100,000 are rescinded.

CORRECTIONS INFORMATION COUNCIL

For operations of the Corrections Information Council, \$100,000 from local funds.

PUBLIC EDUCATION SYSTEM

(RESCISSION)

Notwithstanding any other provision of law, of the local funds appropriated under this heading for public charter schools for the fiscal year

ending September 30, 2002, in the District of Columbia Appropriations Act, 2002, (Public Law 107-96; 115 Stat. 935), \$37,000,000 are rescinded.

HUMAN SUPPORT SERVICES

For an additional amount for "Human Support Services", \$37,000,000 from local funds: Provided, That \$11,000,000 shall be for the Child and Family Services Agency to address increased adoption case rates, higher case loads for adoption and emergency group home utilization: Provided further, That \$26,000,000 shall be for the Department of Mental Health to address a Medicaid revenue shortfall.

REPAYMENT OF LOANS AND INTEREST

(RESCISSION)

Of the funds appropriated under this heading in the District of Columbia Appropriations Act, 2002 (Public Law 107-96; 115 Stat. 940), \$7,950,000 are rescinded.

CERTIFICATES OF PARTICIPATION

For principal and interest payments on the District's Certificates of Participation, issued to finance the One Judiciary Square ground lease underlying the building located at One Judiciary Square, \$7,950,000 from local funds.

ENTERPRISE AND OTHER FUNDS

WATER AND SEWER AUTHORITY

The following amounts are appropriated for the District of Columbia for the current fiscal year out of the general fund of the District of Columbia.

For remote monitoring of water quality, \$1,250,000, to remain available until September 30, 2003.

GENERAL PROVISIONS—THIS CHAPTER

SEC. 401. The District of Columbia may use up to 1 percent of the funds appropriated to the District of Columbia under the Emergency Supplemental Act, 2002, (Public Law 107-117; 115 Stat. 2230), to fund the administrative costs that are needed to fulfill the purposes of that Act. The District may use these funds for this purpose as of January 10, 2002.

SEC. 402. Section 16(d)(2) of the Victims of Violent Crime Compensation Act of 1996 (sec. 4-515(d)(2), D.C. Official Code), as amended by the District of Columbia Appropriations Act, 2002, (Public Law 107-96; 115 Stat. 928) is amended to read as follows: "(2) 50 percent of such balance shall be transferred from the Fund to the Mayor and shall be used without fiscal year limitation for outreach activities designed to increase the number of crime victims who apply for such direct compensation payments."

SEC. 403. (a) Notwithstanding any other provision of law, the positive fund balance of the general fund of the District government which remained at the end of fiscal year 2000 (as reflected in the complete financial statement and report on the activities of the District government for such fiscal year under section 448(a)(4) of the District of Columbia Home Rule Act) shall be used during fiscal year 2002 to provide the minimum balances required for fiscal year 2002 for the emergency reserve fund under section 450A of the District of Columbia Home Rule Act and the contingency reserve fund under section 450B of such Act.

(b) To the extent that the amount of the positive fund balance described in subsection (a) exceeds the amount required to provide the minimum balances in the reserve funds described in such subsection, the District government shall use the excess amount—

(1) to address potential deficits in the budget of the District government for fiscal year 2002, subject to the same conditions applicable under section 202(j)(3) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995 to the obligation and expenditure of the budget reserve and cumulative cash reserve under such section; or

(2) if the Chief Financial Officer of the District of Columbia certifies that the excess amount is available and is not required to ad-

dress potential deficits in the budget of the District government for fiscal year 2002, for Pay-As-You-Go Capital Funds.

(c) To the extent that the excess amount described in subsection (b) is used to address potential deficits in the budget of the District government for fiscal year 2002, such amount shall remain available until expended.

(d)(1) The item relating to "District of Columbia Funds—Operating Expenses—Repayment of Loans and Interest" in the District of Columbia Appropriations Act, 2002 (Public Law 107-96; 115 Stat. 940) is amended by striking "That any funds set aside" and all that follows through "That for equipment leases," and inserting "That for equipment leases,".

(2) Section 159(c) of the District of Columbia Appropriations Act, 2001 (Public Law 106-522; 114 Stat. 2482), as amended by section 133(c) of the District of Columbia Appropriations Act, 2002 (Public Law 107-96; 115 Stat. 956) is amended by striking paragraph (3).

SEC. 404. The Chief Financial Officer of the Washington Metropolitan Area Transit Authority may use up to \$2,400,000 from funds appropriated under Public Law 107-117 under the account, "Federal Payment to the Washington Metropolitan Area Transit Authority", that contains funds for protective clothing and breathing apparatus activities, for employee and facility security and completion of the fiber optic network project.

SEC. 405. The District of Columbia Courts may expend up to \$3,000,000 to carry out the District of Columbia Family Court Act of 2001 from the "Federal Payment to the District of Columbia Courts" account: Provided, That such funds may be transferred to the "Federal Payment to the District of Columbia Courts" account from the "Federal Payment for Family Court Act" account in reimbursement for such obligations and expenditures as are necessary to implement the District of Columbia Family Court Act of 2001 for the period from October 1, 2001 to September 30, 2002, once funds in the "Federal Payment for Family Court Act" account become available.

SEC. 406. Section 11-908A(b)(4) of the District of Columbia Code (as added by Public Law 107-114) is amended by striking "section 11-1501(b)" and inserting "section 433 of the District of Columbia Home Rule Act".

SEC. 407. (a) Under the heading, "Federal Payment to the Thurgood Marshall Academy Charter School" provided under Public Law 107-96, strike "Anacostia" and insert "South-east, Washington, D.C.".

(b) Under the heading, "Federal Payment to Southeastern University" provided under Public Law 107-96, strike everything after "a public/private partnership" and insert in lieu thereof, "to plan a two year associate degree program."

SEC. 408. Section 119 of the District of Columbia Appropriations Act, 2002 (Public Law 107-96; 115 Stat. 950) is amended as follows:

(1) In the heading, by inserting "AND OTHER FUNDS" after "GRANTS".

(2) In subsection (a), by inserting "and other funds" after "other grants".

(3) By amending subsection (b) to read as follows:

"(b) REQUIREMENTS.—

"(1) CHIEF FINANCIAL OFFICER REPORT AND COUNCIL APPROVAL FOR GRANTS.—

"(A) No such Federal, private, or other grant may be accepted, obligated, or expended pursuant to subsection (a) until—

"(i) the Chief Financial Officer of the District of Columbia submits to the Council a report setting forth detailed information regarding such grant; and

"(ii) the Council has reviewed and approved the acceptance, obligation, and expenditure of such grant.

"(B) For purposes of subparagraph (A)(ii), the Council shall be deemed to have reviewed and approved the acceptance, obligation, and expenditure of a grant if—

"(i) no written notice of disapproval is filed with the Secretary of the Council within 14 calendar days of the receipt of the report from the Chief Financial Officer under subparagraph (A)(i); or

"(ii) if such a notice of disapproval is filed within such deadline, the Council does not by resolution disapprove the acceptance, obligation, or expenditure of the grant within 30 calendar days of the initial receipt of the report from the Chief Financial Officer under subparagraph (A)(i).

"(2) CERTIFICATION OF CHIEF FINANCIAL OFFICER AND NOTIFICATION OF COMMITTEES FOR OTHER FUNDS.—No funds which are not grants may be accepted, obligated, or expended pursuant to subsection (a)—

"(A) unless the Chief Financial Officer of the District of Columbia certifies that the funds are available and are not required to address potential deficits; and

"(B) until the expiration of the 14-day period which begins on the date the Mayor notifies the Committees on Appropriations of the House of Representatives and Senate of the acceptance, obligation, and expenditure of such funds."

(4) In subsection (c)—

(A) by striking "under subsection (b)(2) of this section" and inserting "or other funds under this section";

(B) by inserting "or other funds" after "or other grant"; and

(C) by striking "such paragraph" and inserting "this section".

(5) In subsection (d), by inserting "and other funds" after "and other grants".

SEC. 409. Effective June 30, 2002, the authority which the Chief Financial Officer of the District of Columbia exercised with respect to personnel, procurement, and the preparation of fiscal impact statements during a control period (as defined in Public Law 104-8) shall remain in effect through July 1, 2003 or until such time as the District of Columbia Fiscal Integrity Act becomes effective, whichever occurs sooner.

CHAPTER 5

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

OPERATION AND MAINTENANCE, GENERAL

For an additional amount for "Operation and Maintenance, General" for emergency expenses, \$108,200,000, to remain available until September 30, 2003: Provided, That the entire amount shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: Provided further, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That funds made available under this heading in this Act and in Public Law 107-117 may be used to fund measures and activities undertaken by the Secretary of the Army, acting through the Chief of Engineers, to protect and secure any infrastructure owned or operated by, or on behalf of, the U.S. Army Corps of Engineers, including administrative buildings and facilities; and, in addition, \$32,000,000, to remain available until expended: Provided, That using the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to repair, restore, and clean-up Corps' projects and facilities and dredge navigation channels, restore and clean out area streams, provide emergency streambank protection, restore other crucial public infrastructure (including sewer and water facilities), document flood impacts and undertake other flood recovery efforts deemed necessary and advisable by the Chief of Engineers: Provided further, That \$10,000,000 of the

funds provided shall be for Southern West Virginia, Eastern Kentucky, and Southwestern Virginia: Provided further, That the remaining \$22,000,000 shall be available for Western Illinois, Southern Indiana, Eastern Missouri, and the Upper Peninsula of Michigan.

DEPARTMENT OF THE INTERIOR

BUREAU OF RECLAMATION

WATER AND RELATED RESOURCES

For an additional amount for "Water and Related Resources", \$7,000,000, to remain available until expended: Provided, That \$3,000,000 is for the drilling of emergency wells in Santa Fe, New Mexico: Provided further, That \$4,000,000 is to be used for the lease of up to 38,000 acre-feet of emergency water for the Rio Grande in New Mexico, in compliance with the existing biological opinion.

DEPARTMENT OF ENERGY

ENERGY PROGRAMS

SCIENCE

For an additional amount for "Science" for emergency expenses necessary to support safeguards and security activities, \$24,000,000: Provided, That the entire amount shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: Provided further, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

ATOMIC ENERGY DEFENSE ACTIVITIES

NATIONAL NUCLEAR SECURITY ADMINISTRATION

WEAPONS ACTIVITIES

(INCLUDING RESCISSION)

For an additional amount for "Weapons Activities" for emergency expenses, \$158,050,000: Provided, That \$138,650,000 shall be available only to the extent that an official budget request for \$138,650,000 that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: Provided further, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

Of the funds appropriated under this heading in Public Law 107-66 and prior Energy and Water Development Appropriations Acts, \$14,460,000 of unexpended balances are rescinded.

DEFENSE NUCLEAR NONPROLIFERATION

For an additional amount for "Defense Nuclear Nonproliferation" for emergency activities necessary to support the safeguarding of nuclear material, \$100,000,000, to remain available until December 31, 2002.

OFFICE OF THE ADMINISTRATOR

For an additional amount for "Office of the Administrator" for emergency expenses, \$1,750,000: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That the entire amount shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

ENVIRONMENTAL AND OTHER DEFENSE ACTIVITIES

DEFENSE ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT

(INCLUDING RESCISSION)

For an additional amount for "Defense Environmental Restoration and Waste Management" for emergency expenses necessary to support safeguards and security activities, \$56,000,000: Provided, That the entire amount shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: Provided further, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

Of the funds appropriated under this heading in Public Law 107-66 and prior Energy and Water Development Appropriations Acts, \$15,540,000 of unexpended balances are rescinded.

DEFENSE FACILITIES CLOSURE PROJECTS

For an additional amount for "Defense Facilities Closure Projects" for emergency expenses necessary to support safeguards and security activities, \$14,000,000: Provided, That the entire amount shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: Provided further, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

OTHER DEFENSE ACTIVITIES

For an additional amount for "Other Defense Activities" for emergency expenses necessary to support energy security and assurance activities, \$7,000,000: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

GENERAL PROVISIONS—THIS CHAPTER

SEC. 501. The amounts invested by the non-Federal interests in the biomass project at Wisona, Mississippi, before the date of enactment of this Act shall constitute full satisfaction of the cost-sharing requirement under section 3002 of the Energy Policy Act of 1992 (42 U.S.C. 13542).

SEC. 502. Section 1 of Public Law 105-204 (112 Stat. 681) is amended—

(1) in subsection (b), by striking "until the date" and all that follows and inserting "until the date that is 30 days after the date on which the Secretary of Energy awards a contract under subsection (c), and no such amounts shall be available for any purpose except to implement the contract."; and

(2) by striking subsection (c) and inserting the following:

"(c) CONTRACTING REQUIREMENTS.—

"(1) IN GENERAL.—Notwithstanding any other provision of law (except section 1341 of title 31, United States Code), the Secretary of Energy shall—

"(A) not later than 10 days after the date of enactment of this paragraph, request offerors whose proposals in response to Request for Proposals No. DE-RP05-010R22717 ('Acquisition of Facilities and Services for Depleted Uranium Hexafluoride (DUF6) Conversion Project') were included in the competitive range as of January 15, 2002, to confirm or reinstate the offers in accordance with this paragraph, with a deadline for offerors to deliver reinstatement or confirmation to the Secretary of Energy not later than 20

days after the date of enactment of this paragraph; and

"(B) not later than 30 days after the date of enactment of this paragraph, select for award of a contract the best value of proposals confirmed or reinstated under subparagraph (A), and award a contract for the scope of work stated in the Request for Proposals, including the design, construction, and operation of—

"(i) a facility described in subsection (a) on the site of the gaseous diffusion plant at Paducah, Kentucky; and

"(ii) a facility described in subsection (a) on the site of the gaseous diffusion plant at Portsmouth, Ohio.

"(2) CONTRACT TERMS.—Notwithstanding any other provision of law (except section 1341 of title 31, United States Code) the Secretary of Energy shall negotiate with the awardee to modify the contract awarded under paragraph (1) to—

"(A) require, as a mandatory item, that groundbreaking for construction occur not later than July 31, 2004, and that construction proceed expeditiously thereafter;

"(B) include as an item of performance the transportation, conversion, and disposition of depleted uranium contained in cylinders located at the Oak Ridge K-25 uranium enrichment facility located in the East Tennessee Technology Park at Oak Ridge, Tennessee, consistent with environmental agreements between the State of Tennessee and the Secretary of Energy; and

"(C) specify that the contractor shall not proceed to perform any part of the contract unless sufficient funds have been appropriated, in advance, specifically to pay for that part of the contract.

"(3) CERTIFICATION OF GROUNDBREAKING.—Not later than 5 days after the date of groundbreaking for each facility, the Secretary of Energy shall submit to Congress a certification that groundbreaking has occurred.

"(d) FUNDING.—

"(1) IN GENERAL.—For purposes of carrying out this section, the Secretary of Energy may use any available appropriations (including transferred unobligated balances).

"(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated, in addition to any funds made available under paragraph (1), such sums as are necessary to carry out this section."

CHAPTER 6

BILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

CHILD SURVIVAL AND HEALTH PROGRAMS FUND

For an additional amount for "Child Survival and Health Programs Fund" for emergency expenses for activities related to combating HIV/AIDS, tuberculosis, and malaria, \$200,000,000, to remain available until June 30, 2003: Provided, That such activities should include maternal health and related assistance in communities heavily impacted by HIV/AIDS: Provided further, That additional assistance should be provided to prevent transmission of HIV/AIDS from mother to child: Provided further, That of the funds appropriated under this heading in this Act, not less than \$100,000,000 should be made available for a further United States contribution to the Global Fund to Fight AIDS, Tuberculosis, and Malaria: Provided further, That the cumulative amount of United States contributions to the Global Fund may not exceed the total resources provided by other donors and available for use by the Global Fund as of December 31, 2002: Provided further, That of the funds appropriated under this heading, up to \$6,000,000 may be transferred to and merged with funds appropriated by this Act under the heading "Operating Expenses of the United States Agency for International Development" for costs directly related to international health: Provided further, That funds appropriated by

this paragraph shall be apportioned to the United States Agency for International Development, and the authority of sections 632(a) or 632(b) of the Foreign Assistance Act of 1961, or any similar provision of law, may not be used to transfer or allocate any part of such funds to any agency of the United States Government: Provided further, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That the entire amount shall be available only to the extent an official budget request, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: Provided further, That the funds appropriated under this heading shall be subject to the regular notification procedures of the Committees on Appropriations.

INTERNATIONAL DISASTER ASSISTANCE

For an additional amount for "International Disaster Assistance" for emergency expenses for activities related to combating international terrorism, including repairing homes of Afghan citizens that were damaged as a result of military operations, \$134,000,000, to remain available until September 30, 2003.

In addition, for an additional amount for "International Disaster Assistance" for assistance for the West Bank and Gaza, \$50,000,000, to remain available until September 30, 2003: Provided, That none of the funds appropriated by this Act may be obligated or expended with respect to providing funds to the Palestinian Authority: Provided further, That the entire amount provided under this heading in this Act is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That \$144,000,000 shall be available only to the extent an official budget request, that includes designation of \$144,000,000, including \$50,000,000 for the West Bank and Gaza, as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

OPERATING EXPENSES OF THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

For an additional amount for "Operating Expenses of the United States Agency for International Development" for emergency expenses for activities related to combating international terrorism, \$7,000,000, to remain available until September 30, 2003: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

OTHER BILATERAL ECONOMIC ASSISTANCE

ECONOMIC SUPPORT FUND

For an additional amount for "Economic Support Fund" for emergency expenses for activities related to combating international terrorism, \$665,000,000, to remain available until June 30, 2003: Provided, That of the funds appropriated by this paragraph that are made available for assistance for Pakistan, \$1,000,000 should be made available for programs and activities which support the development of independent media in Pakistan: Provided further, That of the funds appropriated by this paragraph, \$10,000,000 should be made available for the establishment of a pilot academic year international youth exchange program for secondary school students from countries with significant Muslim populations: Provided further, That funds made available pursuant to the previous proviso shall not be available for a country in which a similar academic year youth exchange program is currently funded by the United States: Provided further, That of the funds ap-

propriated by this paragraph, \$200,000,000 shall be made available for assistance for Israel, all or a portion of which may be transferred to, and merged with, funds appropriated by this Act under the heading "NONPROLIFERATION, ANTI-TERRORISM, DEMINING AND RELATED PROGRAMS" for defensive, non-lethal anti-terrorism assistance in accordance with the provisions of chapter 8 of part II of the Foreign Assistance Act of 1961: Provided further, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That \$200,000,000 shall be available only to the extent an official budget request, that includes designation of \$200,000,000 for Israel as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: Provided further, That funds appropriated under this heading, and funds appropriated under this heading in prior Acts that are made available for the purposes of this paragraph, may be made available notwithstanding section 512 of Public Law 107-115 or any similar provision of law: Provided further, That the Secretary of State shall inform the Committees on Appropriations at least 15 days prior to the obligation of funds appropriated by this paragraph.

ASSISTANCE FOR THE INDEPENDENT STATES OF THE FORMER SOVIET UNION

For an additional amount for "Assistance for the Independent States of the Former Soviet Union" for emergency expenses for activities related to combating international terrorism, \$110,000,000, to remain available until June 30, 2003: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That the Secretary of State shall inform the Committees on Appropriations at least 15 days prior to the obligation of funds appropriated by this paragraph.

DEPARTMENT OF STATE

INTERNATIONAL NARCOTICS CONTROL AND LAW ENFORCEMENT

For an additional amount for "International Narcotics Control and Law Enforcement" for emergency expenses for activities related to combating international terrorism, \$117,000,000, to remain available until September 30, 2003: Provided, That funds appropriated under this heading should be made available to train and equip a Colombian Armed Forces unit dedicated to apprehending the leaders of paramilitary organizations: Provided further, That of the funds appropriated by this paragraph, not to exceed \$6,000,000 may be made available for assistance for the Colombian Armed Forces for purposes of protecting the Cano Limon pipeline: Provided further, That prior to the obligation of funds under the previous proviso, the Secretary of State shall submit a report to the Committees on Appropriations describing: (1) the estimated oil revenues collected by the Government of Colombia from the Cano Limon pipeline for the preceding 12 months; (2) the amounts expended during such period by the Government of Colombia and private companies owning a financial interest in the pipeline for primary health care, basic education, micro-enterprise and other programs and activities to improve the lives of the people of Arauca department; (3) steps that are being taken to increase and expand support for these programs and activities; and (4) mechanisms that are being established to adequately monitor such funds: Provided further, That of the funds appropriated by this paragraph, not to exceed \$4,000,000 should be made available for law enforcement training for Indonesian police forces: Provided further, That the Secretary of State shall inform the Committees on Appropriations at least 15 days prior to the obligation of

funds appropriated by this paragraph: Provided further, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That \$3,000,000 shall be available only to the extent an official budget request, that includes designation of \$3,000,000 as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

MIGRATION AND REFUGEE ASSISTANCE

For an additional amount for "Migration and Refugee Assistance" for emergency expenses for activities related to combating international terrorism, \$40,000,000, to remain available until June 30, 2003: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That the entire amount shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

NONPROLIFERATION, ANTI-TERRORISM, DEMINING AND RELATED PROGRAMS

For an additional amount for "Nonproliferation, Anti-Terrorism, Demining and Related Programs" for emergency expenses for activities related to combating international terrorism, \$88,000,000, to remain available until September 30, 2003: Provided, That of the funds appropriated by this paragraph, not to exceed \$12,000,000 should be made available for assistance for Indonesia: Provided further, That of the funds appropriated by this paragraph, up to \$1,000,000 may be made available for small arms and light weapons destruction in Afghanistan: Provided further, That of the funds appropriated by this paragraph, up to \$1,000,000 may be made available for the Nonproliferation and Disarmament Fund: Provided further, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That \$5,000,000 shall be available only to the extent an official budget request, that includes designation of \$5,000,000 as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: Provided further, That funds appropriated by this paragraph shall be subject to the regular notification procedures of the Committees on Appropriations.

MILITARY ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

FOREIGN MILITARY FINANCING PROGRAM

For an additional amount for "Foreign Military Financing Program" for emergency expenses for activities related to combating international terrorism, \$387,000,000, to remain available until June 30, 2003: Provided, That funds made available by this Act for assistance for the Government of Uzbekistan may be made available if the Secretary of State determines and reports to the Committees on Appropriations that the Government of Uzbekistan is making substantial and continuing progress in meeting its commitments under the "Declaration on the Strategic Partnership and Cooperation Framework Between the Republic of Uzbekistan and the United States of America": Provided further, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That \$30,000,000 shall be available only to the extent

an official budget request, that includes designation of \$30,000,000 for the Philippines as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: Provided further, That the Secretary of State shall inform the Committees on Appropriations at least 15 days prior to the obligation of funds appropriated by this paragraph: Provided further, That funds appropriated under this heading, and funds appropriated under this heading in prior Acts that are made available for the purposes of this paragraph, may be made available notwithstanding section 512 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2002 or any similar provision of law: Provided further, That not to exceed \$2,000,000 of the funds appropriated in this paragraph may be obligated for necessary expenses, including the purchase of passenger motor vehicles for use outside of the United States, for the general cost of administering military assistance and sales.

PEACEKEEPING OPERATIONS

For an additional amount for "Peacekeeping Operations" for emergency expenses for activities related to combating international terrorism, \$20,000,000, to remain available until June 30, 2003: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That funds appropriated by this paragraph shall be available only for Afghanistan, and may be made available notwithstanding section 512 of Public Law 107-115 or any similar provision of law.

EXPORT AND INVESTMENT ASSISTANCE

EXPORT-IMPORT BANK OF THE UNITED STATES (RESCISSION)

Of the funds appropriated under the heading "Export-Import Bank of the United States" that are available for tied-aid grants in title I of Public Law 107-115 and under such heading in prior Acts making appropriations for foreign operations, export financing, and related programs, \$50,000,000 are rescinded.

BILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT (RESCISSION)

Of the funds appropriated to carry out the provisions of parts I and II of the Foreign Assistance Act of 1961, the Support for East European Democracy (SEED) Act of 1989, and the FREEDOM Support Act, in title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2000 (as contained in Public Law 106-113) and in prior Acts making appropriations for foreign operations, export financing, and related programs, \$60,000,000 are rescinded: Provided, That not more than a total of \$25,000,000 may be rescinded from funds appropriated under the heading "Development Assistance" in said Acts: Provided further, That no rescission may be made from funds appropriated to carry out the provisions of section 104(c) of the Foreign Assistance Act of 1961.

MULTILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT INTERNATIONAL FINANCIAL INSTITUTIONS (RESCISSION)

The unobligated balances of funds provided in Public Law 92-301 and Public Law 93-142 for maintenance of value payments to international financial institutions are rescinded.

GENERAL PROVISIONS—THIS CHAPTER

SEC. 601. (a) COUNTER-TERRORISM AUTHORITY.—

(1) In fiscal year 2002, funds available to the Department of State for assistance to the Government of Colombia shall be available to support a unified campaign against narcotics trafficking, against activities by organizations designated as terrorist organizations such as the

Revolutionary Armed Forces of Colombia (FARC), the National Liberation Army (ELN), and the United Self-Defense Forces of Colombia (AUC), and to take actions to protect human health and welfare in emergency circumstances, including undertaking rescue operations.

(2) This provision shall also apply to unexpended balances and assistance previously provided from prior years' Acts available for the purposes identified in paragraph (1).

(3) The authority in this section is in addition to authorities currently available to provide assistance to Colombia.

(b) In order to ensure effectiveness of United States support for such a unified campaign, prior to the exercise of the authority contained in subsection (a), the Secretary of State shall report to the Committees on Appropriations that—

(1) the newly elected President of Colombia has—

(A) committed, in writing, to establish comprehensive policies to combat illicit drug cultivation, manufacturing, and trafficking (particularly with respect to providing economic opportunities that offer viable alternatives to illicit crops) and to restore government authority and respect for human rights in areas under the effective control of paramilitary and guerrilla organizations;

(B) committed, in writing, to implement significant budgetary and personnel reforms of the Colombian Armed Forces; and

(C) committed, in writing, to support substantial additional Colombian financial and other resources to implement such policies and reforms, particularly to meet the country's previous commitments under "Plan Colombia"; and

(2) no United States Armed Forces personnel or United States civilian contractor employed by the United States will participate in any combat operation in connection with assistance made available for Colombia under this chapter.

(c) The authority provided in subsection (a) shall cease to be effective if the Secretary of State has credible evidence that the Colombian Armed Forces are not conducting vigorous operations to restore government authority and respect for human rights in areas under the effective control of paramilitary and guerrilla organizations.

(d) Sections 556, 567, and 568 of Public Law 107-115, section 8093 of the Department of Defense Appropriations Act, 2002, and the numerical limitations on the number of United States military personnel and United States individual civilian contractors in section 3204(b)(1) of Public Law 106-246, as amended, shall be applicable to funds made available pursuant to the authority contained in subsection (a).

DONATED SHIPMENT OF HUMANITARIAN ASSISTANCE OVERSEAS

SEC. 602. During fiscal year 2002, of the amounts made available by the United States Agency for International Development to carry out the provisions of section 123(b) of the Foreign Assistance Act of 1961, funds may be made available to non-governmental organizations for administrative costs necessary to implement a program to obtain available donated space on commercial ships for the shipment of humanitarian assistance overseas.

REPORTS ON AFGHANISTAN SECURITY AND DELIVERY OF ASSISTANCE

SEC. 603. The President shall transmit to the Committee on Appropriations and the Committee on International Relations of the House of Representatives and the Committee on Appropriations and the Committee on Foreign Relations of the Senate two reports setting forth a strategy for meeting the security needs of Afghanistan in order to promote safe and effective delivery of humanitarian and other assistance throughout Afghanistan, further the rule of law and civil order, and support the formation of a functioning, representative Afghan national government. The first report, which should be transmitted no later than 30 days after enactment of this Act, should report on the strategy for meeting the immediate security needs of Afghanistan. The second report, which should be trans-

mitted no later than 90 days after enactment of this Act, should report on a long term strategy for meeting the security needs of Afghanistan and should include a reassessment of the strategy to meet the immediate security needs if they have changed substantially.

CHAPTER 7

DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

MANAGEMENT OF LANDS AND RESOURCES

For an additional amount for "Management of Lands and Resources", \$658,000, for emergency security expenses, to remain available until expended: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That the entire amount shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

UNITED STATES FISH AND WILDLIFE SERVICE

RESOURCE MANAGEMENT

For an additional amount for "Resource Management", \$1,038,000, for emergency security expenses, to remain available until expended: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That the entire amount shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

CONSTRUCTION

For an additional amount for "Construction", \$3,125,000, to remain available until expended, for facility and safety improvements related to homeland security: Provided, That the Congress designates the entire amount as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That the entire amount shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

NATIONAL PARK SERVICE

OPERATION OF THE NATIONAL PARK SYSTEM

For an additional amount for "Operation of the National Park System", \$1,173,000, for emergency security expenses, to remain available until expended: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That the entire amount shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

CONSTRUCTION

For an additional amount for "Construction", \$17,651,000, to remain available until expended: Provided, That the Congress designates the entire amount as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That the

entire amount shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

UNITED STATES GEOLOGICAL SURVEY

SURVEYS, INVESTIGATIONS, AND RESEARCH

For an additional amount for "Surveys, Investigations, and Research", \$26,000,000, to remain available until expended, of which \$20,000,000 is for high resolution mapping and imagery of the Nation's strategic cities, and of which \$6,000,000 is for data storage infrastructure upgrades and emergency power supply system improvements at the Earth Resources Observation Systems Data Center: Provided, That the Congress designates the entire amount as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That the entire amount shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

BUREAU OF INDIAN AFFAIRS

OPERATION OF INDIAN PROGRAMS

(INCLUDING RESCISSION OF FUNDS)

For an additional amount for "Operation of Indian Programs", \$134,000, for emergency security expenses, to remain available until expended: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That the entire amount shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

Of the funds provided under this heading in Public Law 107-20 for electric power operations and related activities at the San Carlos Irrigation Project, \$10,000,000 are rescinded.

Funds provided under this heading in Public Law 107-20, for electric power operations and related activities at the San Carlos Irrigation Project, and remaining within the account may be used for unanticipated trust reform projects and costs related to the ongoing Cobell litigation or other litigation concerning the management of Indian trust funds: Provided, That funds made available herein may, as needed, be transferred to or merged with any account funded in the Interior and Related Agencies Appropriations Act to reimburse costs incurred for these litigation activities.

DEPARTMENTAL OFFICES

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses", \$905,000, for emergency security expenses, to remain available until expended: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That the entire amount shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

DEPARTMENT OF AGRICULTURE

FOREST SERVICE

WILDLAND FIRE MANAGEMENT

For an additional amount to cover necessary expenses for wildfire suppression operations, \$50,000,000, to remain available until expended: Provided, That such funds are also available for repayment of advances to other appropriation accounts from which funds were previously transferred for wildfire suppression: Provided further, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That the entire amount shall be available only to the extent that an official budget request, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

CAPITAL IMPROVEMENT AND MAINTENANCE

For an additional amount for "Capital Improvement and Maintenance", \$3,500,000, to remain available until expended, for facility enhancements to protect property from acts of terrorism, vandalism, and theft: Provided, That the Congress designates the entire amount as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That the entire amount shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

RELATED AGENCY

SMITHSONIAN INSTITUTION

SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses", of the Smithsonian Institution, \$10,000,000, for emergency security expenses, to remain available until expended: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That the entire amount shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

CONSTRUCTION

For an additional amount for "Construction", \$2,000,000, to remain available until expended, for planning, design, and construction of an alcohol collections storage facility at the Museum Support Center: Provided, That the Congress designates the entire amount as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That the entire amount shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

GENERAL PROVISIONS—THIS CHAPTER

SEC. 701. Within 10 days of enactment of this Act, funds appropriated to the Forest Service under the heading "Wildland Fire Management" in Public Law 107-63 for the following purposes: \$5,000,000 for research activities and \$10,000,000 for capital improvement and maintenance of fire facilities, shall be released and made available for immediate obligation. These

funds are not available for transfer for purposes other than those described in this section.

SEC. 702. None of the funds appropriated in this or any other Act, except funds appropriated to the Office of Management and Budget, shall be available to study the transfer of any research activities from the Smithsonian Institution to the National Science Foundation.

SEC. 703. In fiscal year 2002 and thereafter, the Secretary of the Interior may charge reasonable fees for services provided at Midway Atoll National Wildlife Refuge, including fuel sales, and retain those fees, to be credited to the United States Fish and Wildlife Service, "Resource Management" account and remain available until expended for operation and maintenance of infrastructure and staffing required for non-refuge specific needs, including meeting the terms necessary for an airport operating certificate and the purchase of fuel supplies.

SEC. 704. The Department of the Interior and Related Agencies Appropriations Act, 2002 (Public Law 107-63), under the head "Minerals Management Service, Royalty and Offshore Minerals Management" is amended by striking the word "and" immediately following the word "points," in the sixth proviso, and by inserting immediately after the word "program" in the sixth proviso " , or under its authority to transfer oil to the Strategic Petroleum Reserve," and by inserting at the end of the sixth proviso immediately preceding the colon, the following, "and to recover MMS transportation costs, salaries and other administrative costs directly related to filling the Strategic Petroleum Reserve".

SEC. 705. In entering into agreements with foreign countries pursuant to the Wildfire Suppression Assistance Act (42 U.S.C. 1856m) the Secretary of Agriculture and the Secretary of the Interior are authorized to enter into reciprocal agreements in which the individuals furnished under said agreements to provide wildfire services are considered, for purposes of tort liability, employees of the country receiving said services when the individuals are fighting fires. The Secretary of Agriculture or the Secretary of the Interior shall not enter into any agreement under this provision unless the foreign country (either directly or through its fire organization) agrees to assume any and all liability for the acts or omissions of American firefighters engaged in firefighting in a foreign country. When an agreement is reached for furnishing fire fighting services, the only remedies for acts or omissions committed while fighting fires shall be those provided under the laws of the host country and those remedies shall be the exclusive remedies for any claim arising out of fighting fires in a foreign country. Neither the sending country nor any organization associated with the firefighter shall be subject to any action whatsoever pertaining to or arising out of fighting fires.

SEC. 706. (a) FINDINGS.—Congress finds that—
(1) forest health conditions within the Beaver Park Area and the Norbeck Wildlife Preserve within the Black Hills National Forest are deteriorating and immediate action to treat these areas is in the public interest;

(2) the existing settlement agreement in *Biodiversity Associates v. Laverty*, Civil Action No. 99-N-2173, filed in the United States District Court for the District of Colorado on September 12, 2000, (referred to in this Act as the "Settlement") prevents timely action to reduce the risk of wildfire in the Beaver Park Roadless Area;

(3) pending litigation (*Sierra Club v. U.S. Forest Service*, Civ. No. 94-D-2273 (D. Colorado)) prevents timely action to reduce the risk of wildfire in the Norbeck Wildlife Preserve;

(4) existing administrative and legal processes cannot address the fire danger in time to enable the Secretary of Agriculture to take action to reduce the danger;

(5) immediate action to address the fire danger in an environmentally responsive manner is supported by the State, local counties, local industry users, and some environmental groups;

(6) the addition of 3,600 acres to the Black Elk Wilderness in the Black Hills National Forest is in the public interest;

(7) the State of South Dakota, Lawrence, Meade and Pennington County fire officials are encouraged to identify "fire emergency zone" areas in which public safety may require a moratorium on issuance of new building permits, and identify the changes in conditions (including the adoption of fire-safe building standards) that may be needed to end these moratoria; and

(8) the State of South Dakota is encouraged to take actions as necessary to create a defensible fuel zone within state lands south and southwest of Sturgis.

(b) **PURPOSES.**—The purposes of this Section are—

(1) to authorize and direct the Secretary of Agriculture (in this Section referred to as the "Secretary") to undertake actions to address promptly the risk of fire and insect infestation; and

(2) to designate an addition to the existing Black Elk Wilderness Area in the Black Hills National Forest.

(c) **FIRE AND BEETLE RISK REDUCTION IN EXISTING TIMBER SALE ANALYSIS AREAS.**—

(1) **IN GENERAL.**—Subject to paragraph (2), the Secretary is authorized to treat additional timber within or outside the existing cutting units for the Piedmont, Kirk, Redhill, Cavern, Deadman, Danno and Vanocker timber sales and within the analysis areas for these sales as is necessary to reduce beetle infestation and fire hazard;

(2) **CRITERIA.**—In implementing additional treatments within the timber sale analysis areas referred to in paragraph (1), the Secretary shall use in order of priority the following criteria:

(A) Areas within ¼ mile of private properties where private property owners have taken or are taking actions to treat their lands.

(B) Stands that are a fire hazard or insect infested, and are near private lands or in proximity to communities.

(C) Areas that have the highest intensity or concentration of insect infestation that will move to other areas.

(D) Stands that are a fire hazard or insect infested, and are near areas of high resource value where retaining green trees is important, such as goshawk nests, sensitive landscapes, recreation areas, and developments.

(E) Stands that are a high fire hazard or insect infested, and are within skidding distance of existing roads.

(F) Concentrations of insect infested trees.

(G) Stands with the highest density that are most susceptible to insect attack and are in close proximity to infested trees.

(3) **ADDITIONAL CRITERIA.**—In carrying out this subsection, the Secretary shall ensure that—

(A) any additional treatment for the Cavern, Kirk, and Piedmont sales shall comply with provisions 6c, d and e of the Settlement;

(B) any additional treatment for the Deadman and Vanocker sales, shall be consistent with the Black Hills Forest Plan, including the "Phase I Amendment"; and

(C) any additional treatment for the Redhill and Danno sales shall comply with the provisions of 7b, c, and g of the Settlement.

(4) **SKID TRAILS.**—Notwithstanding the Settlement, the Secretary may authorize access by skid trails to the additional treatment areas referred to in this subsection to remove or treat infested stands, except that the skid trails otherwise restricted by the settlement shall be restored to pre-existing conditions upon completion of treatment activities.

(5) **COMPLETION OF TREATMENT ACTIVITIES.**—The Secretary shall request timber purchasers to give priority to completing treatment within the Piedmont, Kirk, Redhill, Cavern, Deadman, Danno, and Vanocker timber sale areas to address fire issues and beetle outbreaks.

(d) **OTHER TREATMENTS.**—

(1) **BUFFER ZONES.**—The Secretary is authorized to reduce risk to private property adjoining the Black Hills National Forest by treating insect infested trees, dead trees, and downed woody materials on National Forest System lands in T5N, R5E, BHM, Section 35, and T4N, R5E, BHM, Sections 1, 2 and 12 within 200 feet of adjacent private property. The treatments shall comply with the goshawk nest protections and snail protections in provisions 6c and 7g of the Settlement.

(2) **ADDITIONAL TREATMENTS.**—The Secretary is authorized to treat for insects and fuel reduction National Forest System lands within ¼ mile of private property and other non-National Forest System lands near the community of Sturgis, and shall include, where feasible, the following locations:

(A) in T5N, R5E, BHM within ¼ mile of the exterior boundary of the Black Hills National Forest in—

- (i) Section 35;
- (ii) Section 27;
- (iii) Section 21;
- (iv) Section 20; and
- (v) Section 18.

(B) in T5N, R4E, BHM—

- (i) Section 13;
- (ii) Section 11;
- (iii) Section 2;
- (iv) Section 3; and
- (v) Section 4.

(3) **FUEL BREAKS.**—The Secretary shall establish 400-foot fuel breaks as depicted on the map entitled "Beaver Park Fuel Breaks and Fuel Treatment Areas," dated June 11, 2002. In establishing the fuel breaks, the Secretary—

(A) shall not enter any 30-acre area around historic or active goshawk nest sites identified in Exhibit B1 of the Settlement; and

(B) shall use best efforts to retain the largest green trees and large snags.

(4) **LIMITATION.**—Treatment actions outside of the Beaver Park Roadless Area authorized by subsection (c) and subsection (d)(1), (2), and (3) shall be limited to no more than 8,000 acres of National Forest System land, pending the issuance of a decision on the proposed Elk Bugs and Fuel project.

(5) **FORBES GULCH.**—To reduce concentrated heavy fuels, the Secretary is authorized to treat not more than 700 acres within the area identified as Forbes Gulch on the map referred to in paragraph (3). Such treatments shall not involve commercial timber sales or road construction, except that the Secretary may permit firewood cutters to remove the timber without construction of any roads. In carrying out the treatments authorized by this paragraph, the Secretary—

(A) may use the Forbes Gulch unclassified road for motorized equipment and vehicles to facilitate ingress and egress of equipment and personnel and may maintain this road to minimum standards necessary for safety and resource protection;

(B) may utilize helicopters to fly in heavy equipment (such as industrial chippers and small tractors) to assist with the project;

(C) shall use best efforts to retain the largest green trees and large snags;

(D) may construct two 10-acre safety zones; and

(E) shall reduce the stand structure to no less than 40 square feet basal area per acre of live trees, if available.

(e) **FIRE SUPPRESSION ACCESS IN THE BEAVER PARK ROADLESS AREA.**—

(1) **PRE-SUPPRESSION PLAN.**—The pre-suppression plan for the Beaver Park Roadless Area provided for in the Settlement may provide for actions authorized by this section, and shall be completed as soon as practicable.

(2) **IMPROVED ACCESS.**—The Secretary is authorized to provide for improved fire equipment access at the perimeter of the Beaver Park Roadless Area by improving classified Forest Roads 139.1, 169.1b, 169.1d, and 139.1b. Such im-

provements shall be the minimum necessary for crews, equipment and single axle wildfire trucks and may include removing selected trees along roads, constructing pull-outs and turn-arounds, smoothing road surfaces in rough spots, and straightening some corners.

(3) **FORBES GULCH UNCLASSIFIED ROAD.**—To protect public safety and reduce fire risks, the Secretary shall prohibit public access year-long on the Forbes Gulch unclassified road. The Secretary shall conduct a roads analysis process as provided in Forest Service Manual 7710 and the necessary level of analysis and documentation pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321-4347) (in this Section referred to as "NEPA") before making a decision to open to public motor vehicle use the Forbes Gulch unclassified road identified on the map entitled "Beaver Park Fuel Breaks and Fuel Treatment Areas," dated June 11, 2002. Except as provided in subsection (d)(5) and until a decision is issued, the Secretary shall not maintain the Forbes Gulch unclassified road and shall prohibit public access on the road.

(4) **HELISPOTS.**—If sufficient openings for helispots are not available in the Beaver Park Roadless Area, the Secretary is authorized to construct two 5-acre helispots within the Area to transport firefighters and fire equipment into and out of the area.

(5) **EASEMENTS.**—To facilitate firefighter access into, and escape routes from, Beaver Park Roadless Area, the Secretary shall attempt to acquire easements from the exterior Forest Service boundary to I-90 on the eastern side of Beaver Park Roadless Area, at a minimum, along Tilford Gulch, Forbes Gulch, Pleasant Valley and Bulldog Gulch.

(f) **NEEDLES TIMBER SALE AREA.**—

(1) **NEEDLES TIMBER SALE.**—The Needles Timber Sale shall proceed after the Secretary makes modifications in implementation of the Decision Notice to further benefit game animals and birds, as reflected in the memorandum known as the "Burns/Carter memorandum" dated November 10, 1999, and maintained in the Black Hills National Forest Supervisor's office. The standards to which any road is constructed for the timber sale shall be the minimum necessary to access and remove timber.

(2) **RESEARCH COMMITTEE.**—By December 1, 2003, the Secretary shall select a committee composed of research scientists who are federal employees to recommend an old growth research area within the Needles area (outside the Needles Timber Sale cutting units). By December 1, 2004, the committee shall make its recommendation to the Secretary. The committee's recommendation shall be subject to public notice, review and comment.

(g) **GRIZZLY TIMBER SALE.**—The Grizzly Timber Sale shall proceed after the Secretary makes modifications in implementation of the Decision Notice to further benefit game animals and birds, as reflected in the memorandum known as the "Burns/Carter memorandum" dated November 10, 1999, and maintained in the Black Hills National Forest Supervisor's office. The standards to which any road is constructed for the timber sale shall be the minimum necessary to access and remove timber.

(h) **NORBECK.**—The Secretary is authorized to use the full spectrum of management tools including prescribed fire and silvicultural treatments to benefit game animal and bird habitat in meeting the purposes of the Norbeck Organic Act. The management actions required by subsections (f)(1) and (g) are deemed consistent with the Norbeck Organic Act (16 U.S.C. 675-678b).

(i) **NORBECK MEMORANDUM OF UNDERSTANDING.**—By December 1, 2003, the Secretary shall propose a Memorandum of Understanding with the South Dakota Department of Game, Fish and Parks to, at a minimum, adopt procedures to monitor the effects of management activities, consult on habitat management, concur on program areas of responsibility, and review

and recommend as needed any changes to Norbeck Wildlife Preserve direction contained in the 1997 Revised Forest Plan and future plan amendments and revisions. The basis of the MOU will be the guidelines set forth in the May 21, 2002 memo by SDF&P.

(j) **PROCESS.**—Due to the extraordinary circumstances present here, actions authorized by this section shall proceed immediately and to completion notwithstanding any other provision of law including, but not limited to, NEPA and the National Forest Management Act (16 U.S.C. 1601 et seq.). Such actions shall also not be subject to the notice, comment, and appeal requirements of the Appeals Reform Act, (16 U.S.C. 1612 (note), Pub. Law No. 102-381 sec. 322). Any action authorized by this Section shall not be subject to judicial review by any court of the United States. Except as provided by this Section the Settlement remains in full force and effect.

(k) **EFFECT OF ACTIONS.**—Except for those actions required by subsections (f)(1) and (g), the Secretary shall disclose the effect of actions authorized by this Section in the proposed Elk Bugs and Fuels project cumulative effects analysis for past, present, and reasonably foreseeable future actions. The decision for the Elk Bugs and Fuels project shall be issued not later than July 1, 2003.

(l) **RESEARCH NATURAL AREA.**—Except as provided in this Section, the Secretary shall undertake no additional ground disturbing or vegetation removal activities within the Beaver Park Roadless Area until completion of the Phase II amendment to the Black Hills National Forest Plan. The Secretary shall analyze the Beaver Park Roadless Area for suitability as a Research Natural Area, as required by the Settlement. The Secretary shall not consider any of the actions authorized or required by this section to affect the suitability of the Beaver Park Roadless Area for designation as a Research Natural Area.

(m) **ROADLESS CHARACTER.**—The actions authorized by this section will not affect the determination of the Beaver Park Roadless Area's wilderness capability, wilderness suitability, and/or roadless character.

(n) **WILDERNESS DESIGNATION.**—Section 103 of Public Law 96-560 is amended by—

(1) inserting "(1)" after "National Wilderness Preservation System:"; and

(2) adding before "Provided, That" the following: "and (2) certain lands in the Black Hills National Forest, South Dakota, which comprise approximately three thousand six hundred acres, as generally depicted on a map entitled 'Black Elk Wilderness Addition-Proposed,' dated June 13, 2002, and which shall constitute an addition to the existing Black Elk Wilderness";

(o) **REPORTING.**—The Secretary shall report to the Congress on the implementation of this section on or by November 30, 2002, June 30, 2003, and November 30, 2003.

CHAPTER 8

DEPARTMENT OF LABOR

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

SALARIES AND EXPENSES

Of the funds provided under this heading in Public Law 107-116 for Occupational Safety and Health Administration training grants, not less than \$3,200,000 shall be used to extend funding for the Institutional Competency Building training grants which commenced in September 2000, for program activities for the period of September 30, 2002 to September 30, 2003, provided that a grantee has demonstrated satisfactory performance.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

HEALTH RESOURCES AND SERVICES ADMINISTRATION

HEALTH RESOURCES AND SERVICES

The matter preceding the first proviso under this heading in Public Law 107-116 is amended—

(1) by inserting "IV," after "titles II, III,"; and

(2) by striking "\$311,978,000" and inserting "\$315,333,000".

The matter under this heading in Public Law 107-116 is amended by striking "\$4,000,000 is for the Columbia Hospital for Women Medical Center in Washington, D.C. to support community outreach programs for children" and inserting "\$4,000,000 is for the All Children's Hospital, St. Petersburg, Florida to support development of a pediatric clinical research center program".

CENTERS FOR DISEASE CONTROL AND PREVENTION

DISEASE CONTROL, RESEARCH, AND TRAINING

For an additional amount for the Centers for Disease Control and Prevention, "Disease Control, Research, and Training", \$1,000,000: Provided, That the entire amount is designated as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That the entire amount shall be available only to the extent an official budget request, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

NATIONAL INSTITUTES OF HEALTH

BUILDINGS AND FACILITIES

(INCLUDING RESCISSION)

Of the funds provided under this heading in Public Law 107-116, \$30,000,000 are rescinded.

Under this heading in Public Law 107-116, "\$26,000,000" is deleted and "\$36,600,000" is inserted.

ADMINISTRATION FOR CHILDREN AND FAMILIES CHILDREN AND FAMILIES SERVICES AND PROGRAMS

For an additional amount for "Children and Families Services Programs" for carrying out section 316 of the Family Violence Prevention and Services Act (42 U.S.C. 10416), \$500,000: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That the entire amount shall be available only to the extent an official budget request, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

OFFICE OF THE SECRETARY

PUBLIC HEALTH AND SOCIAL SERVICES EMERGENCY FUND

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States for "Public Health and Social Services Emergency Fund" for baseline and follow-up screening and clinical examinations, long-term health monitoring and analysis for the emergency services personnel, rescue and recovery personnel, \$90,000,000, to remain available until expended, of which no less than \$25,000,000 shall be available for current and retired firefighters: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That the entire amount shall be available only to the extent an official budget request,

that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

DEPARTMENT OF EDUCATION

SCHOOL IMPROVEMENT PROGRAMS

The matter under this heading in Public Law 107-116 is amended by inserting before the period, "Provided further, That of the amount made available under subpart 8, part D, title V of the ESEA, \$2,300,000 shall be available for Digital Educational Programming Grants".

Of the funds provided under this heading in Public Law 107-116 to carry out the Elementary and Secondary Education Act of 1965, \$832,889,000 shall be available to carry out part D of title V, and up to \$11,500,000 may be used to carry out section 2345.

In the statement of the managers of the committee of conference accompanying H.R. 3061 (Public Law 107-116; House Report 107-342), in the matter relating to the Fund for the Improvement of Education under the heading "School Improvement Programs"—

(1) the provision specifying \$200,000 for Fresno At-Risk Youth Services and the provision specifying \$225,000 for the Fresno Unified School District shall be applied by substituting the following for the two provisions: "Fresno Unified School District, Fresno, California, in partnership with the City of Fresno, California, for activities to address the problems of at-risk youth, including afterschool activities and a mobile science unit, \$425,000";

(2) the provision specifying \$250,000 for the Wellington Public School District, Wellington, KS, shall be deemed to read as follows: "Wellington Public School District, Wellington, KS, for after school activities, \$250,000";

(3) the provision specifying \$200,000 for the Vermont Higher Education Council shall be deemed to read as follows: "Vermont Higher Education Consortium to develop universal early learning programs to ensure that at least one certified teacher will be available in center-based child care programs, \$200,000";

(4) the provision specifying \$250,000 for Education Service District 117 in Wenatchee, WA, shall be deemed to read as follows: "Education Service District 171 in Wenatchee, WA, to equip a community technology center to expand technology-based training, \$250,000";

(5) the provision specifying \$1,000,000 for the Electronic Data Systems Project shall be deemed to read as follows: "Washington State Department of Education for an electronic data systems project to create a database that would improve the acquisition, analysis and sharing of student information, \$1,000,000";

(6) the provision specifying \$250,000 for the YMCA of Seattle-King-Snohomish County shall be deemed to read as follows: "YWCA of Seattle-King County-Snohomish County to support women and families through an at-risk youth center and other family supports, \$250,000";

(7) the provision specifying \$50,000 for Drug Free Pennsylvania shall be deemed to read as follows: "Drug Free Pennsylvania to implement a demonstration project, \$50,000";

(8) the provision specifying \$20,000,000 for the Commonwealth of Pennsylvania Department of Education shall be deemed to read as follows: "\$20,000,000 is included for a grant to the Commonwealth of Pennsylvania Department of Education to provide assistance, through subgrants, to low-performing school districts that are slated for potential takeover and/or on the Education Empowerment List as prescribed by Pennsylvania State Law. The initiative is intended to improve the management and operations of the school districts; assist with curriculum development; provide after-school, summer and weekend programs; offer teacher and principal professional development and promote the acquisition and effective use of instructional technology and equipment";

(9) the provision specifying \$1,000,000 for State of Louisiana for Louisiana Online shall be deemed to read as follows: "Online Louisiana, Inc., New Orleans, LA, for a K-12 technology initiative, \$1,000,000";

(10) the provision specifying \$150,000 for the American Theater Arts for Youth, Inc., Philadelphia, PA, for a Mississippi Arts in Education Program shall be deemed to read as follows: "American Theater Arts for Youth, Inc., for a Mississippi Arts in Education program, \$150,000";

(11) the provision specifying \$340,000 for the Zero to Five Foundation, Los Angeles, California, shall be deemed to read as follows: "Zero to Five Foundation, Los Angeles, California, to develop an early childhood education and parenting project, \$340,000";

(12) the provision specifying \$900,000 for the University of Nebraska, Kearney, Nebraska, shall be deemed to read as follows: "University of Nebraska, Kearney, Nebraska, for a Minority Access to Higher Education Program to address the special needs of Hispanic and other minority populations from grades K-12, \$900,000";

(13) the provision specifying \$25,000 for the American Theater Arts for Youth for an Arts in Education program shall be deemed to read as follows: "American Theater Arts for Youth, Inc., in Philadelphia, Pennsylvania, for an Arts in Education program, \$25,000";

(14) the provision specifying \$50,000 for the Lewiston-Auburn College/University of Southern Maine shall be deemed to read as follows: "Lewiston-Auburn College/University of Southern Maine CLASS program to prepare teachers to meet the demands of Maine's 21st century elementary and middle schools, \$50,000"; and

(15) the provision specifying \$500,000 for the Prairie Lakes Education Cooperative in Madison, South Dakota to advance distance learning for Native Americans in BIA and tribal schools shall be deemed to read as follows: "Sisseton-Wahpeton School Board in Agency Village, South Dakota to advance distance learning for Native American students, \$500,000".

STUDENT FINANCIAL ASSISTANCE

For an additional amount for "Student Financial Assistance" for Pell Grants, \$1,000,000,000, to remain available through September 30, 2003.

HIGHER EDUCATION

In the statement of the managers of the committee of conference accompanying H.R. 3061 (Public Law 107-116; House Report 107-342), in the matter relating to the Fund for the Improvement of Postsecondary Education under the heading "Higher Education"—

(1) the provision for Nicholls State University, Thibodaux, LA, shall be applied by substituting "Intergenerational Program and Advanced Technology Program" for "International Program";

(2) the provision specifying \$1,000,000 for the George J. Mitchell Scholarship Research Institute shall be deemed to read as follows: "George J. Mitchell Scholarship Research Institute in Portland, Maine, for an endowment to provide scholarships that allow students attending public schools in Maine to continue their education, \$1,000,000";

(3) the provision specifying \$10,000,000 for the Shriver Peace Worker Program, Inc. shall be deemed to read as follows: "Shriver Peace Worker Program, Inc. to establish the Sargent Shriver Peace Center, which may include establishing an endowment for such center, for the purpose of supporting graduate research fellowships, professorships, and grants and scholarships for students related to peace studies and social change, \$10,000,000"; and

(4) the provision specifying \$1,000,000 for Cleveland State University shall be deemed to read as follows: "Cleveland State University, College of Education, Cleveland, Ohio, for a K-16 Urban School Leadership initiative, \$1,000,000".

EDUCATION RESEARCH, STATISTICS, AND ASSESSMENT

The matter under this heading in Public Law 107-116, is amended by inserting before the period the following new proviso: "Provided further, That \$5,000,000 shall be available to extend for one additional year the contract for the Eisenhower National Clearinghouse for Mathematics and Science Education authorized under section 2102(a)(2) of the Elementary and Secondary Education Act of 1965, prior to its amendment by the No Child Left Behind Act of 2001, Public Law 107-110".

GENERAL PROVISIONS—THIS CHAPTER

SEC. 801. The Elementary and Secondary Education Act of 1965 is hereby amended in section 8003 by amending subsection (b)(2)(D)(ii)(III) to read as follows: "For a local educational agency that does not qualify under (B)(i)(II)(aa) of this subsection and has an enrollment of more than 100 but not more than 1,000 children described in subsection (a)(1), the Secretary shall calculate the total number of weighted student units for purposes of subsection (a)(2) by multiplying the number of such children by a factor of 1.25."

SEC. 802. The Elementary and Secondary Education Act of 1965 is hereby amended in section 8003(b)(1) by adding the following as subparagraph (G):

"(G) Beginning with fiscal year 2002, for the purpose of calculating a payment under this paragraph for a local educational agency whose local contribution rate was computed under subparagraph (C)(iii) for the previous year, the Secretary shall use a local contribution rate that is not less than 95 percent of the rate that the LEA received for the preceding year."

SEC. 803. Amounts made available in Public Law 107-116 for the administrative and related expenses for departmental management for the Department of Labor, the Department of Health and Human Services, and the Department of Education, shall be reduced by \$45,000,000: Provided, That this provision shall not apply to the Food and Drug Administration and the Indian Health Service: Provided further, That not later than 15 days after the enactment of this Act, the Director of the Office of Management and Budget shall report to the House and Senate Committees on Appropriations the accounts subject to the reductions and the amount to be reduced in each account.

SEC. 804. (a) Section 487 of the Public Health Service Act (42 U.S.C. 288) is amended by striking "National Research Service Awards" or "National Research Service Award" each place either appears and inserting in lieu thereof "Ruth L. Kirschstein National Research Service Awards" or "Ruth L. Kirschstein National Research Service Award" as appropriate.

(b) The heading for Section 487 of the Public Health Service Act (42 U.S.C. 288) is amended to read as follows: "Ruth L. Kirschstein National Research Service Awards".

(c) Any reference in any law (other than this Act), regulation, document, record, map, or other paper of the United States to "National Research Service Awards" shall be considered to be a reference to "Ruth L. Kirschstein National Research Service Awards".

SEC. 805. None of the funds provided by this or any other Act may be used to enforce the amendments made by section 166 of the Community Renewal Tax Relief Act of 2000 in Alaska, including the imposition of any penalties.

SEC. 806. In the statement of the managers of the committee of conference accompanying the fiscal year 2001 Labor, Health and Human Services, and Education appropriations bill (Public Law 106-554; House Report 106-1033), the provision specifying \$464,000 for the Bethel Native Corporation worker demonstration project shall be deemed to read as follows: "for the Alaska CHAR vocational training program, \$100,000 and \$364,000 for the Yuut Elitnauvriat People's Learning Center in Bethel, Alaska for vocational training for Alaska Natives".

SEC. 807. Notwithstanding any other provision of law, from September 1 through September 30, 2002, the Secretary of Education may transfer to Program Administration an amount necessary to offset any reduction pursuant to section 803 of this Act but not to exceed \$5,000,000 from funds made available in the Department of Education Appropriations Act, 2002, that the Secretary determines are not needed to fully fund all qualified grant applications and would otherwise lapse at the end of fiscal year 2002: Provided, That the Committees on Appropriations of both Houses of Congress are notified at least 15 days in advance of any such transfer.

CHAPTER 9

LEGISLATIVE BRANCH

HOUSE OF REPRESENTATIVES

SALARIES AND EXPENSES

For an additional amount for salaries and expenses of the House of Representatives, \$1,600,000, as follows:

COMMITTEE EMPLOYEES

STANDING COMMITTEES, SPECIAL AND SELECT

For an additional amount for salaries and expenses of standing committees, special and select, authorized by House resolutions, \$1,600,000: Provided, That such amount shall remain available for such salaries and expenses until December 31, 2002.

JOINT ITEMS

CAPITOL POLICE BOARD

CAPITOL POLICE

GENERAL EXPENSES

For an additional amount for the Capitol Police Board for necessary expenses of the Capitol Police, including computer equipment and services, training, communications, uniforms, weapons, and reimbursement to the Environmental Protection Agency, Hazardous Substance Superfund for additional expenses incurred for anthrax investigations and cleanup actions, \$16,100,000, to remain available until expended, to be disbursed by the Capitol Police Board or their delegee.

LIBRARY OF CONGRESS

COPYRIGHT OFFICE

SALARIES AND EXPENSES

For an additional amount for "Copyright Office, Salaries and expenses", \$7,500,000, to remain available until expended.

ADMINISTRATIVE PROVISIONS

SEC. 901. The amount otherwise made available under section 506 of the Supplemental Appropriations Act, 1973 (2 U.S.C. 58) for fiscal year 2002 to any Senator from the Senators' Official Personnel and Office Expense Account shall be increased by the amount (not in excess of \$20,000) which the Senator certifies in a written request to the Secretary of the Senate made not later than September 30, 2002, as being necessary for the payment or reimbursement of expenditures incurred or obligated during fiscal year 2002 that—

(1) are otherwise payable from such account, and

(2) are directly related to responses to the terrorist attacks of September 11, 2001, or the discovery of anthrax in the Senate complex and the displacement of Senate offices due to such discovery.

SEC. 902. (a) Chapter 9 of the Emergency Supplemental Act, 2002 (Public Law 107-117; 115 Stat. 2315), is amended—

(1) in section 901(a), by striking "buildings and facilities" and insert "buildings and facilities, subject to the availability of appropriations,".

(b) Section 9 of the Act of July 31, 1946 (40 U.S.C. 212a), is amended by redesignating the subsection (b) added by section 903(c)(2) of the Emergency Supplemental Act, 2002, as subsection (c).

(c) The amendment made by this section shall take effect as if included in the enactment of the Emergency Supplemental Act, 2002.

SEC. 903. (a) Chapter 9 of the Emergency Supplemental Act, 2002 (Public Law 107-117; 115 Stat. 2315), is amended—

(1) in section 903(a), by striking “buildings and facilities” and insert “buildings and facilities, subject to the availability of appropriations,”.

(b) Section 9 of the Act of July 31, 1946 (40 U.S.C. 212a), is amended by redesignating the subsection (b) added by section 903(c)(2) of the Emergency Supplemental Act, 2002, as subsection (c).

(c) The amendment made by this section shall take effect as if included in the enactment of the Emergency Supplemental Act, 2002.

SEC. 904. Nothing in section 1535 of title 31, U.S.C. (commonly referred to as the “Economy Act”), or any other provision of such title may be construed to prevent or restrict the Chief Administrative Officer of the House of Representatives from placing orders under such section during any fiscal year in the same manner and to the same extent as the head of any other major organizational unit with an agency may place orders under such section during a fiscal year.

SEC. 905. (a) The Architect of the Capitol is authorized, subject to the availability of appropriations, to acquire (through purchase, lease, or otherwise) buildings and facilities for use as computer backup facilities (and related uses) for offices in the legislative branch.

(b) The acquisition of a building or facility under subsection (a) shall be subject to the approval of—

(1) the House Office Building Commission, in the case of a building or facility acquired for the use of an office of the House of Representatives;

(2) the Committee on Rules and Administration of the Senate, in the case of a building or facility acquired for the use of an office of the Senate; or

(3) the House Office Building Commission in the case of a building or facility acquired for the use of any other office in the legislative branch as part of a joint facility with (1) above, or the Committee on Rules and Administration of the Senate, in the case of a building or facility acquired for the use of any other office in the legislative branch as part of a joint facility with (2) above.

(c) Any building or facility acquired by the Architect of the Capitol pursuant to subsection (a) shall be a part of the United States Capitol Grounds and shall be subject to the provisions of the Act entitled “An Act to define the area of the United States Capitol Grounds, to regulate the use thereof, and for other purposes”, approved July 31, 1946.

(d) This section shall apply with respect to fiscal year 2002 and each succeeding fiscal year.

SEC. 906. (a) There is hereby established in the Treasury of the United States an account for the Architect of the Capitol to be known as “Capitol Police Buildings and Grounds” (hereinafter in this section referred to as the “account”).

(b) Funds in the account shall be used by the Architect of the Capitol for all necessary expenses for the maintenance, care, and operation of buildings and grounds of the United States Capitol Police.

(c) This section shall apply with respect to fiscal year 2002 and each succeeding fiscal year. Any amounts provided to the Architect of the Capitol prior to the date of the enactment of this Act for the maintenance, care, and operation of buildings of the United States Capitol Police during fiscal year 2002 shall be transferred to the account.

SEC. 907. (a) Subject to the approval of the House Office Building Commission and the Senate Committee on Rules and Administration, the Architect of the Capitol is authorized to acquire (through purchase, lease, transfer from another Federal entity, or otherwise) real property, subject to the availability of appropriations and upon approval of an obligation plan by the

Committees on Appropriations of the House and Senate, for the use of the United States Capitol Police.

(b) Any real property acquired by the Architect of the Capitol pursuant to subsection (a) shall be a part of the United States Capitol Grounds and shall be subject to the provisions of the Act entitled “An Act to define the area of the United States Capitol Grounds, to regulate the use thereof, and for other purposes”, approved July 31, 1946.

(c) This section shall apply with respect to fiscal year 2002 and each succeeding fiscal year.

CHAPTER 10

DEPARTMENT OF DEFENSE

MILITARY CONSTRUCTION

MILITARY CONSTRUCTION, AIR FORCE

For an additional amount for “Military Construction, Air Force”, \$7,250,000, to remain available until September 30, 2006: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That the entire amount shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: Provided further, That notwithstanding any other provision of law, such funds may be obligated or expended to carry out planning and design and military construction projects not otherwise authorized by law.

MILITARY CONSTRUCTION, DEFENSE-WIDE

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for “Military Construction, Defense-wide”, \$21,500,000, to remain available until September 30, 2006: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That the entire amount shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: Provided further, That notwithstanding any other provision of law, such funds may be obligated or expended to carry out planning and design and military construction projects not otherwise authorized by law.

GENERAL PROVISION—THIS CHAPTER

SEC. 1001. (a) AVAILABILITY OF AMOUNTS FOR MILITARY CONSTRUCTION RELATING TO TERRORISM.—Amounts made available to the Department of Defense from funds appropriated in this Act may be used to carry out military construction projects, not otherwise authorized by law, that the Secretary of Defense determines are necessary to respond to or protect against acts or threatened acts of terrorism.

(b) NOTICE TO CONGRESS.—Not later than 15 days before obligating amounts available under subsection (a) for military construction projects referred to in that subsection, the Secretary shall notify the appropriate committees of Congress of the following:

(1) the determination to use such amounts for the project; and

(2) the estimated cost of the project and the accompanying Form 1391.

(c) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section the term “appropriate committees of Congress” has the meaning given that term in section 2801(4) of title 10, United States Code.

CHAPTER 11

DEPARTMENT OF TRANSPORTATION

OFFICE OF THE SECRETARY

TRANSPORTATION ADMINISTRATIVE SERVICE CENTER

(LIMITATION ON OBLIGATIONS)

Under this heading in Public Law 107-87, as amended by section 1106 of Public Law 107-117, delete “\$116,023,000” and insert “\$128,123,000”.

TRANSPORTATION SECURITY ADMINISTRATION

(INCLUDING TRANSFER OF FUNDS)

For additional amounts for emergency expenses to ensure transportation security, \$3,850,200,000, to remain available until expended: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That of the amounts provided under this head, \$1,030,000,000 shall, immediately upon enactment of this Act, be transferred to Federal Emergency Management Agency “Disaster Relief” for emergency expenses to respond to the September 11, 2001 terrorist attack on the United States: Provided further, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That of such amount, \$480,200,000 shall be available only to the extent an official budget request for a specific dollar amount that includes designation of the entire amount of the request as an emergency requirement as defined in such Act is transmitted by the President to the Congress: Provided further, That of the total amount provided herein, the following amounts are available for obligation only for the specific purposes below:

(1) Physical modification of commercial service airports for the purpose of installing checked baggage explosive detection systems, including explosive trace detection systems, \$738,000,000;

(2) Port security activities, \$125,000,000, of which \$105,000,000 shall be distributed under the same terms and conditions as provided for under Public Law 107-117 and of which \$20,000,000 shall be used for developing and conducting port incident training and exercises;

(3) Grants and contracts to enhance security for intercity bus operations, \$15,000,000;

(4) Grants, contracts and interagency agreements for the purpose of deploying Operation Safe Commerce, \$28,000,000;

(5) Procurement of air-ground communications systems and devices for the Federal air marshal program, \$15,000,000;

(6) Grants and contracts for radiation detection system test and evaluation, \$4,000,000;

(7) Grants to airport authorities for pilot projects to improve airport terminal security, \$17,000,000;

(8) Grants and contracts for security research, development, and pilot projects, \$10,000,000; and

(9) Replacement of magnetometers at airport passenger screening locations in commercial service airports, \$23,000,000.

Provided further, That none of the funds in this Act shall be used to recruit or hire personnel into the Transportation Security Administration which would cause the agency to exceed a staffing level of 45,000 full-time permanent positions.

U.S. COAST GUARD

OPERATING EXPENSES

For an additional amount for “Operating Expenses” for emergency expenses for homeland security and other purposes, \$200,000,000, to remain available until September 30, 2003: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That of such amount, \$11,000,000 shall be available only

to the extent an official budget request that includes designation of the \$11,000,000 as an emergency requirement as defined in such Act is transmitted by the President to the Congress.

ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

For an additional amount for "Acquisition, Construction, and Improvements" for emergency expenses for homeland security and other purposes, \$328,000,000, to remain available until September 30, 2004, of which \$38,100,000 shall be available to acquire, repair, renovate or improve vessels, small boats and related equipment; \$200,000,000 shall be available to acquire new aircraft and increase aviation capability; \$27,729,000 shall be available for other equipment; and \$62,171,000 shall be for shore facilities and aids to navigation facilities: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That of such amount, \$262,000,000 shall be available only to the extent an official budget request that includes designation of the \$262,000,000 as an emergency requirement as defined in such Act is transmitted by the President to the Congress.

FEDERAL AVIATION ADMINISTRATION OPERATIONS

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Operations", \$42,000,000, for security activities at Federal Aviation Administration facilities: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That the entire amount shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: Provided further, That an additional \$33,000,000 may be derived by transfer from "Facilities and Equipment (Airport and Airway Trust Fund)".

FACILITIES AND EQUIPMENT

(AIRPORT AND AIRWAY TRUST FUND)

For an additional amount for "Facilities and Equipment", \$7,500,000, to be derived from the Airport and Airway Trust Fund and to remain available until expended: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That the entire amount shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

GRANTS-IN-AID FOR AIRPORTS

(AIRPORT AND AIRWAY TRUST FUND)

For an additional amount to enable the Federal Aviation Administrator to compensate airports for the direct costs associated with new, additional, or revised security requirements imposed on airport operators by the Administrator on or after September 11, 2001, notwithstanding any other provision of law, \$150,000,000, to be derived from the Airport and Airway Trust Fund and to remain available until expended: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That the entire amount shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Bal-

anced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

FEDERAL HIGHWAY ADMINISTRATION

FEDERAL-AID HIGHWAYS

EMERGENCY RELIEF PROGRAM

(HIGHWAY TRUST FUND)

For an additional amount for "Emergency Relief Program", as authorized by 23 U.S.C. 125, for emergency expenses to respond to the September 11, 2001, terrorist attacks on New York City, \$167,000,000 for the State of New York, to be derived from the Highway Trust Fund and to remain available until expended: Provided, That notwithstanding 23 U.S.C. 120(e), the Federal share for any project on a Federal-aid highway related to the New York City terrorist attacks shall be 100 percent: Provided further, That notwithstanding 23 U.S.C. 125(d)(1), the Secretary of Transportation may obligate more than \$100,000,000 for those projects: Provided further, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

FEDERAL-AID HIGHWAYS

(HIGHWAY TRUST FUND)

(RESCISSION)

Of the funds apportioned to each state under the programs authorized under sections 1101(a)(1), 1101(a)(2), 1101(a)(3), 1101(a)(4) and 1101(a)(5) of Public Law 105-178, as amended, \$320,000,000 are rescinded.

FEDERAL-AID HIGHWAYS

EMERGENCY RELIEF PROGRAM

(HIGHWAY TRUST FUND)

For an additional amount for the "Emergency Relief Program", as authorized by section 125 of title 23, United States Code, \$98,000,000, to be derived from the Highway Trust Fund and to remain available until expended: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That the entire amount shall be available only to the extent that an official budget request, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

FEDERAL MOTOR CARRIER SAFETY

ADMINISTRATION

BORDER ENFORCEMENT PROGRAM

(HIGHWAY TRUST FUND)

For necessary expenses of the Border Enforcement Program to respond to the September 11, 2001, terrorist attacks on the United States, \$19,300,000, to be derived from the Highway Trust Fund, of which \$4,200,000 shall be to implement section 1012 of Public Law 107-56 (USA Patriot Act); \$10,000,000 shall be for drivers' license fraud detection and prevention, the northern border safety and security study, and hazardous material security education and outreach; and \$5,100,000 shall be for the purposes of coordinating drivers' license registration and social security number verification: Provided, That in connection with such commercial drivers' license fraud deterrence projects, the Secretary may enter into such contracts or grants with the American Association of Motor Vehicle Administrators, States, or other persons as the Secretary may so designate to carry out these purposes: Provided further, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

HAZARDOUS MATERIALS SECURITY

(HIGHWAY TRUST FUND)

For necessary expenses to implement the hazardous materials safety permit program pursu-

ant to 49 U.S.C. 5109, \$5,000,000, to be derived from the Highway Trust Fund and to remain available until expended: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That the entire amount shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in such Act is transmitted by the President to the Congress.

FEDERAL RAILROAD ADMINISTRATION

GRANTS TO THE NATIONAL RAILROAD PASSENGER CORPORATION

For an additional amount for the National Railroad Passenger Corporation for expenses to ensure the continuation of rail passenger operations, \$205,000,000.

FEDERAL TRANSIT ADMINISTRATION

CAPITAL INVESTMENT GRANTS

For an additional amount for "Capital Investment Grants" for emergency expenses to respond to the September 11, 2001, terrorist attacks in New York City, \$1,800,000,000, to remain available until expended to replace, rebuild, or enhance the public transportation systems serving the Borough of Manhattan, New York City, New York: Provided, That the Secretary may use up to 1 percent of this amount for oversight activities: Provided further, That these funds are subject to grant requirements as determined by the Secretary to ensure that eligible projects will improve substantially the mobility of commuters in Lower Manhattan: Provided further, That the Federal share for any project funded from this amount shall be 100 percent: Provided further, That these funds are in addition to any other appropriation available for these purposes: Provided further, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

GENERAL PROVISIONS—THIS CHAPTER

SEC. 1101. Notwithstanding any other provision of law, projects and activities designated on pages 82 through 92 of House Report 107-308 shall be eligible for fiscal year 2002 funds made available for the program for which each project or activity is so designated and projects and activities on pages 116 and 117 shall be awarded those grants upon receipt of an application.

SEC. 1102. Section 335 of Public Law 107-87 is amended by inserting "and the Transportation Security Administration" after "the Federal Aviation Administration"; by inserting "aviation security" after "air navigation", and by inserting "and the TSA for necessary security checkpoints" after the word "facilities".

SEC. 1103. Title II of Division C of Public Law 105-277 is amended by striking "of more than 750 gross registered tons" in each place it appears, and inserting in lieu thereof, "of more than 750 gross registered tons (as measured under Chapter 145 of Title 46) or 1,900 gross registered tons as measured under Chapter 143 of that Title)".

SEC. 1104. Section 354 of Public Law 106-346 (114 Stat. 1356A-35) is amended by inserting "or Rail Road" after "Star Landing Road".

SEC. 1105. Notwithstanding any other provision of law, \$2,750,000 of amounts made available for "Intelligent Transportation Systems" in Public Law 107-87 and Public Law 106-346 shall be made available for activities authorized under section 5118 of Public Law 105-178.

CHAPTER 12

DEPARTMENT OF THE TREASURY

FEDERAL LAW ENFORCEMENT TRAINING CENTER

SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses" for expenses of expanded law enforcement training workload resulting from the

September 11, 2001 terrorist attacks against the United States, \$15,870,000, to remain available until September 30, 2003: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That the entire amount shall be available only to the extent that an official budget request, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

FINANCIAL MANAGEMENT SERVICE
SALARIES AND EXPENSES
(RESCISSION)

Of the unobligated balance as of June 30, 2002, of the funds made available for "Financial Management Service, Salaries and Expenses" in chapter 10 of title II of Public Law 107-20, \$14,000,000 are rescinded.

UNITED STATES CUSTOMS SERVICE
SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses", \$39,000,000, to remain available until expended: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That the entire amount shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

INTERNAL REVENUE SERVICE
INFORMATION SYSTEMS
(RESCISSION)

Of the available balances under this heading, \$10,000,000 are rescinded.

BUSINESS SYSTEMS MODERNIZATION

For an additional amount for "Internal Revenue Service, Business Systems Modernization", \$14,000,000, to remain available until September 30, 2003. Such additional amount may not be obligated until the Internal Revenue Service submits to the Committees on Appropriations, and such Committees approve, a plan for the expenditure of such additional amount that complies with the requirements as specified in clauses (1) through (6) under such heading in Public Law 107-67.

UNITED STATES SECRET SERVICE
SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses" for expenses related to the September 11, 2001 terrorist attacks against the United States, \$28,530,000, to remain available until September 30, 2003: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That the entire amount shall be available only to the extent that an official budget request, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

POSTAL SERVICE

PAYMENT TO THE POSTAL SERVICE FUND

For an additional amount for "Payment to the Postal Service Fund" for emergency expenses to enable the Postal Service to protect postal employees and postal customers from exposure to biohazardous material and to sanitize and screen the mail, \$87,000,000, to remain available until expended: Provided, That the entire

amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

EXECUTIVE OFFICE OF THE PRESIDENT
AND FUNDS APPROPRIATED TO THE PRESIDENT

OFFICE OF ADMINISTRATION
SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses", \$3,800,000, to remain available until expended: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

OFFICE OF MANAGEMENT AND BUDGET
SALARIES AND EXPENSES
(RESCISSION)

Of the funds made available under this heading in Public Law 107-67, \$100,000 are rescinded.

ELECTION ADMINISTRATION REFORM AND RELATED EXPENSES
(INCLUDING TRANSFER OF FUNDS)

For necessary expenses for the implementation of an Act authorizing funds for the improvement of election administration and related expenses, \$400,000,000, to remain available until expended: Provided, That such amounts shall not be available for obligation until the enactment of such Act: Provided further, That upon enactment of such Act, the Director of the Office of Management and Budget shall transfer such amounts to the Federal entities authorized by such Act to expend funds for the designated purposes: Provided further, That, within 15 days of such transfers, the Director of the Office of Management and Budget shall notify Congress of the amounts transferred to each authorized Federal entity: Provided further, That the entities to which the amounts are transferred shall use the amounts to carry out the applicable provisions of such Act: Provided further, That the transfer authority provided in this paragraph shall be in addition to any other transfer authority provided in this or any other Act: Provided further, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That the entire amount shall be available only to the extent that an official budget request, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

INDEPENDENT AGENCIES

FEDERAL ELECTION COMMISSION

SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses", \$750,000 for unanticipated costs associated with implementing the Bipartisan Campaign Reform Act.

GENERAL SERVICES ADMINISTRATION
REAL PROPERTY ACTIVITIES

FEDERAL BUILDINGS FUND

For an additional amount for "Federal Buildings Fund" for building security emergency expenses resulting from the September 11, 2001, terrorist attacks on the United States, \$21,800,000: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

GENERAL PROVISIONS—THIS CHAPTER

SEC. 1201. None of the funds appropriated in this or any other Act may be used to transfer the functions, missions, or activities of the United States Customs Service to the Department of Justice.

SEC. 1202. (a) The Federal Law Enforcement Training Center may, for a period ending not later than 5 years after the date of the enactment of this Act, appoint and maintain a cadre of up to 250 Federal annuitants—(1) without regard to any provision of title 5, United States Code, which might otherwise require the application of competitive hiring procedures; and (2) who shall not be subject to any reduction in pay (for annuity allocable to the period of actual employment) under the provisions of section 8344 or 8468 of such title 5 or similar provision of any other retirement system for employees. A reemployed Federal annuitant as to whom a waiver of reduction under paragraph (2) applies shall not, for any period during which such waiver is in effect, be considered an employee for purposes of subchapter III of chapter 83 or chapter 84 of title 5, United States Code, or such other retirement system (referred to in paragraph (2)) as may apply.

(b) No appointment under this section may be made which would result in the displacement of any employee.

(c) For purposes of this section—

(1) the term "Federal annuitant" means an employee who has retired under the Civil Service Retirement System, the Federal Employees' Retirement System, or any other retirement system for employees;

(2) the term "employee" has the meaning given such term by section 2105 of such title 5; and

(3) the counting of Federal annuitants shall be done on a full time equivalent basis.

SEC. 1203. Notwithstanding any other provision of law, hereafter, for purposes of section 201(a) of the Federal Property and Administrative Services Act of 1949 (relating to Federal sources of supply, including lodging providers, airlines and other transportation providers), the Eisenhower Exchange Fellowship Program shall be deemed an executive agency for the purposes of carrying out the provisions of 20 U.S.C. 5201, and the employees of and participants in the Eisenhower Exchange Fellowship Program shall be eligible to have access to such sources of supply on the same basis as employees of an executive agency have such access.

CHAPTER 13

DEPARTMENT OF VETERANS AFFAIRS

VETERANS BENEFITS ADMINISTRATION

COMPENSATION AND PENSIONS

For an additional amount for "Compensation and pensions", \$1,100,000,000, to remain available until expended.

VETERANS HEALTH ADMINISTRATION

MEDICAL CARE

For an additional amount for "Medical care", \$417,000,000, to remain available until September 30, 2003: Provided, That the funds provided herein be allocated using the VERA methodology: Provided further, That for the purposes of enabling the collection from third-party insurance carriers for non-service related medical care of veterans, all Department of Veterans Affairs healthcare facilities are hereby certified as Medicare and Medicaid providers and the Centers for Medicare and Medicaid Services within the Department of Health and Human Services shall issue each Department of Veterans Affairs healthcare facility a provider number as soon as practicable after the date of enactment of this Act: Provided further, That nothing in the preceding proviso shall be construed to enable the Department of Veterans Affairs to bill Medicare or Medicaid for any medical services provided by the Veterans Health Administration or to require the Centers for Medicare and Medicaid Services to pay for any medical services provided by the Department of Veterans Affairs: Provided further, That \$275,000,000 is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That

\$275,000,000 shall be available only to the extent that an official budget request, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

PUBLIC AND INDIAN HOUSING
HOUSING CERTIFICATE FUND
(RESCISSION)

Of the unobligated balances remaining from funds appropriated to the Department of Housing and Urban Development under this heading or the heading "Annual contributions for assisted housing" or any other heading for fiscal year 2002 and prior years, \$388,500,000 is hereby rescinded: Provided, That this rescission shall apply first to such unobligated balances under this heading or the heading "Annual contributions for assisted housing": Provided further, That any unobligated balances governed by re-allocation provisions under the statute authorizing the program for which the funds were originally appropriated may be available for this rescission subject to the first proviso.

COMMUNITY PLANNING AND DEVELOPMENT

COMMUNITY DEVELOPMENT FUND

For an additional amount for the "Community development fund" for emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, \$783,000,000, to remain available until expended: Provided, That the State of New York, in cooperation with the City of New York, shall, through the Lower Manhattan Development Corporation, distribute these funds: Provided further, That such funds may be used for assistance for properties and businesses (including the restoration of utility infrastructure) damaged by, and for economic revitalization directly related to, the terrorist attacks on the United States that occurred on September 11, 2001, in New York City and for reimbursement to the State and City of New York for expenditures incurred from the regular Community Development Block Grant formula allocation used to achieve these same purposes: Provided further, That the State of New York is authorized to provide such assistance to the City of New York: Provided further, That in administering these funds and funds under section 108 of title I of the Housing and Community Development Act of 1974, as amended, used for economic revitalization activities in New York City, the Secretary may waive, or specify alternative requirements for, any provision of any statute or regulation that the Secretary administers in connection with the obligation by the Secretary or the use by the recipient of these funds or guarantees (except for requirements related to fair housing, nondiscrimination, labor standards, and the environment), upon a finding that such waiver is required to facilitate the use of such funds or guarantees: Provided further, That such funds shall not adversely affect the amount of any formula assistance received by the State of New York, New York City, or any categorical application for other Federal assistance: Provided further, That the Secretary shall publish in the Federal Register any waiver of any statute or regulation that the Secretary administers pursuant to title I of the Housing and Community Development Act of 1974, as amended, no later than 5 days before the effective date of such waiver: Provided further, That the Secretary shall notify the Committees on Appropriations on the proposed allocation of any funds and any related waivers pursuant to this section no later than 5 days before such allocation: Provided further, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

The referenced statement of the managers under the heading "Community development

block grants" in title II of Public Law 105-276 is deemed to be amended by striking "\$250,000 for renovation, accessibility, and asbestos remediation for the Wellstone Neighborhood Center, Wellstone, Missouri" and insert in lieu thereof "\$250,000 for the St. Louis Economic Council for design, infrastructure and construction related to the Enterprise Center-Wellstone in Wellstone, Missouri".

The referenced statement of the managers under the heading "Community development fund" in title II of Public Law 106-377 is deemed to be amended by striking "\$2,000,000 is for the Louisville Community Development Bank for the Louisville Neighborhood Initiative" and inserting "\$2,000,000 for neighborhood revitalization activities in Louisville, Kentucky, as follows: \$170,000 to the Christian Church Homes of Kentucky for facility upgrades at Chapel House, \$500,000 to the Louisville Medical Center Development Corporation for expansion of a research park, \$400,000 to the Louisville Science Center for construction of a permanent exhibition, \$150,000 to the New Zion Community Development Foundation for renovation of a facility, \$400,000 to the Presbyterian Community Center for construction of a facility, \$180,000 to the St. Stephen Family Life Center for renovation of a facility, and \$200,000 to the United Crescent Hill Ministries for renovation of a facility".

The referenced statement of the managers under the heading "Community development fund" in title II of Public Law 106-377 is deemed to be amended by striking "\$1,000,000 for the Community Action Agency of Southern New Mexico, Inc. for construction of a regional food bank and supporting offices" and insert in lieu thereof "\$1,000,000 for the Community Action Agency of Southern New Mexico for construction, purchase, or renovation and the equipping of a regional food bank and supporting offices".

The referenced statement of the managers under the heading "Community development fund" in title II of Public Law 107-73 is deemed to be amended by striking "\$400,000 to the City of Reading, Pennsylvania for the development of the Morgantown Road Industrial Park on what is currently a brownfields site" and insert in lieu thereof "\$400,000 for the City of Reading, Pennsylvania for the development of the American Chain and Cable brownfield site".

The referenced statement of the managers under the heading "Community development fund" in title II of Public Law 107-73 is deemed to be amended by striking "\$750,000 for the Smart Start Child Care Center and Expertise School of Las Vegas, Nevada for construction of a child care facility" and insert in lieu thereof "\$250,000 for the Smart Start Child Care Center of Las Vegas, Nevada for construction of a child care facility and \$500,000 for Expertise, Inc. of Las Vegas, Nevada for job training".

The referenced statement of the managers under the heading "Community development fund" in title II of Public Law 107-73 is deemed to be amended by striking "\$3,000,000 for the Louisville Community Development Bank for continuation of the Louisville Neighborhood Initiative" and inserting "\$3,000,000 for neighborhood revitalization activities in Louisville, Kentucky, as follows: \$250,000 to the Bridgehaven Mental Health Agency for planning and development of a facility, \$600,000 to the Cable Life Community Enrichment Corporation for construction of a facility, \$350,000 to Catholic Charities for renovation of a facility, \$500,000 to the Center for Women and Families for an affordable housing program, \$100,000 to the Clifton Cultural Center for renovation of a historic building, \$200,000 to Harrods Creek Community Development for construction of a facility, \$200,000 to the James Taylor Memorial Home for facility improvements, \$600,000 to the Kentucky Art and Craft Foundation for renovation of a facility, and \$200,000 to the Shelby Park Neighborhood Association for facility construction".

The referenced statement of the managers under the heading "Community development

block grants" in title II of Public Law 106-74 is deemed to be amended with respect to the amount made available for the City of Hollister, California by striking "to the City of Hollister, California for the construction of a new fire station" and inserting "to the Monterey County, California Economic Development Agency for a mobile animal slaughter processing unit".

The unobligated amount appropriated in the third paragraph under the heading "Community development block grants" in chapter 8 of title II of the Emergency Supplemental Act, 2000 (Public Law 106-246; 114 Stat. 565), as subsequently made available under the heading "Community development fund" in chapter 13 of Division A of the Miscellaneous Appropriations Act, 2001 (H.R. 5666 (excluding section 123), 106th Congress, as enacted into law by Public Law 106-554; 114 Stat. 2763D-42), for a grant to the County of Richmond, North Carolina, shall remain available until September 30, 2003, for development and construction of the Richmond County Industrial Park.

The referenced statement of the managers under this heading in title II of Public Law 106-377 is deemed to be amended by striking "\$300,000 for Upper Darby Township, Pennsylvania to assist residents with homes that are sinking due to soil subsidence" and insert in lieu thereof "\$300,000 for Upper Darby Township, Pennsylvania to assist residents with homes that are sinking due to soil subsidence and for the development of a recreation area, including parking, at Shadeland Avenue".

The referenced statement of the managers under this heading in Public Law 107-73 is deemed to be amended by striking "\$150,000 to Winchester County, Virginia for the historic restoration of the Winchester County Courthouse" and inserting "\$150,000 to Frederick County, Virginia for the historic restoration of the Old Frederick County Courthouse in Winchester, Virginia".

The referenced statement of the managers under this heading in Public Law 107-73 is deemed to be amended with respect to the amount made available for Family Focus by striking "Family Focus" and inserting "the Weissbourd-Holmes Family Focus Center" and by striking "Evansville" and inserting "Evans-ton".

The referenced statement of the managers under this heading in Public Law 107-73 is deemed to be amended by striking "\$100,000 for Morristown Neighborhood House for the infrastructure improvements to the Manahan Village Resident Center Childcare facility in Morristown, New Jersey" and inserting "\$100,000 to the Somerset Valley YMCA Childcare Center in Somerset County, New Jersey for capital improvements".

The referenced statement of the managers under this heading in Public Law 107-73 is deemed to be amended by striking "\$600,000 to the Reuben Lindh Family Services in Minneapolis, Minnesota for facilities rehabilitation" and inserting in lieu thereof "\$350,000 to the Plymouth Christian Youth Center in Minneapolis, Minnesota for facilities rehabilitation and \$250,000 to Migizi Communications in Minneapolis, Minnesota to repair and renovate its Family Education Center".

HOME INVESTMENT PARTNERSHIPS PROGRAM
(RESCISSION)

Of the funds made available under this heading in Public Law 107-73, \$50,000,000 are rescinded from the Downpayment Assistance Initiative.

HOUSING PROGRAMS
RENTAL HOUSING ASSISTANCE
(RESCISSION)

The limitation otherwise applicable to the maximum payments that may be required in any fiscal year by all contracts entered into under section 236 of the National Housing Act (12 U.S.C. 1715z-1) is reduced in fiscal year 2002 by

not more than \$300,000,000 in uncommitted balances of authorizations of contract authority provided for this purpose in appropriations acts: Provided, That up to \$300,000,000 of recaptured section 236 budget authority resulting from the prepayment of mortgages subsidized under section 236 of the National Housing Act (12 U.S.C. 1715z-1) shall be rescinded in fiscal year 2002.

INDEPENDENT AGENCIES

DEPARTMENT OF HEALTH AND HUMAN SERVICES

NATIONAL INSTITUTES OF HEALTH

NATIONAL INSTITUTE OF ENVIRONMENTAL HEALTH SCIENCES

For an additional amount for "National Institute of Environmental Health Sciences", \$8,000,000, to remain available until September 30, 2003, to carry out activities set forth in section 311(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, and section 126(g) of the Superfund Amendments and Reauthorization Act of 1986 in response to the September 11, 2001, terrorist attacks on the United States: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That the entire amount shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

AGENCY FOR TOXIC SUBSTANCES AND DISEASE REGISTRY

TOXIC SUBSTANCES AND ENVIRONMENTAL PUBLIC HEALTH

For an additional amount for "Toxic substances and environmental public health", \$11,300,000, to remain available until September 30, 2003, of which \$1,800,000 is for additional expenses incurred in response to the September 11, 2001, terrorist attacks on the United States, and of which \$9,500,000 is to enhance the States' capacity to respond to chemical terrorism events: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That the entire amount shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

ENVIRONMENTAL PROTECTION AGENCY SCIENCE AND TECHNOLOGY

For an additional amount for "Science and technology", \$50,000,000, to remain available until September 30, 2003: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That the entire amount shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

ENVIRONMENTAL PROGRAMS AND MANAGEMENT (TRANSFER OF FUNDS)

Of the amount appropriated under this heading in title III of Public Law 107-73 to develop engineering plans for addressing the wastewater infrastructure needs in Rosman, North Carolina as identified in project number 67, \$400,000 shall be transferred to the "State and tribal assistance grants" account to remain available until

expended for grants for wastewater and sewer infrastructure improvements in the Town of Rosman, North Carolina.

STATE AND TRIBAL ASSISTANCE GRANTS

The referenced statement of the managers under this heading in Public Law 106-377 is deemed to be amended by striking everything after "\$1,000,000" in reference to item 91 and inserting "to the Northern Kentucky Area Development District for Carroll County Wastewater Infrastructure Project (\$500,000), City of Owenton Water Collection and Treatment System Improvements and Freshwater Intake Project (\$400,000), Grant County Williamstown Lake Expansion Project (\$50,000), and Pendleton County Williamstown Lake Expansion Project (\$50,000)".

The referenced statement of the managers under this heading in Public Law 107-73 is deemed to be amended by striking everything after "for" in reference to item number 202 and inserting "storm water infrastructure improvements".

Grants appropriated under this heading in Public Law 107-73 for drinking water infrastructure needs in the New York City watershed shall be awarded under section 1443(d) of the Safe Drinking Water Act, as amended.

The referenced statement of the managers under this heading in Public Law 106-377 is deemed to be amended by striking everything after "\$2,000,000" in reference to item number 168 and inserting "for the Town of Wallace, North Carolina for a regional wastewater infrastructure improvement project (\$1,000,000), and for the Town of Cary, North Carolina for wastewater infrastructure improvements including the treatment of biosolids (\$1,000,000)".

The referenced statement of managers under this heading in Public Law 107-73 is deemed to be amended in item 19 by inserting the words "water and" after the word "for".

The referenced statement of the managers under this heading in Public Law 107-73 is deemed to be amended by striking everything after "sewer" in reference to item number 183 and inserting "and drinking water upgrade project in Anaconda, Montana".

The referenced statement of the managers under this heading in Public Law 107-73 is deemed to be amended by striking "the City of Florence, Montana" in reference to item number 184 and inserting "the Florence County Water and Sewer District".

FEDERAL EMERGENCY MANAGEMENT AGENCY DISASTER RELIEF

For an additional amount for "Disaster relief" for emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States in carrying out the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), and the Federal Fire Prevention and Control Act of 1974, as amended (15 U.S.C. 2201 et seq.), \$2,650,700,000, to remain available until expended: Provided, That in administering the Mortgage and Rental Assistance Program for victims of September 11, 2001, the Federal Emergency Management Agency will recognize those people who were either directly employed in the Borough of Manhattan or had at least 75 percent of their wages coming from business conducted within the Borough of Manhattan as eligible for assistance under the program, as they were directly impacted by the terrorist attacks: Provided further, That FEMA shall provide compensation to previously denied Mortgage and Rental Assistance Program applicants who would qualify under these new guidelines: Provided further, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

DISASTER ASSISTANCE FOR UNMET NEEDS

For an additional amount for "Disaster assistance for unmet needs", \$23,200,000, to remain

available until September 30, 2004, for use by the Director of the Federal Emergency Management Agency (Director) only for disaster relief, long-term recovery, and mitigation in communities affected by Presidentially-declared natural disasters designated during fiscal year 2002, only to the extent funds are not made available for those activities by the Federal Emergency Management Agency (under its "Disaster relief" program) or the Small Business Administration: Provided, That in administering these funds the Director shall allocate these funds to States to be administered by each State in conjunction with its Federal Emergency Management Agency Disaster Relief program: Provided further, That each State shall provide not less than 25 percent in non-Federal public matching funds or its equivalent value (other than administrative costs) for any funds allocated to the State under this heading: Provided further, That the Director shall allocate these funds based on the unmet needs arising from a Presidentially-declared disaster as identified by the Director as those which have not or will not be addressed by other Federal disaster assistance programs and for which it is deemed appropriate to supplement the efforts and available resources of States, local governments and disaster relief organizations: Provided further, That the Director shall establish review groups within the Federal Emergency Management Agency to review each request by a State of its unmet needs and certify as to the actual costs associated with the unmet needs as well as the commitment and ability of each State to provide its match requirement: Provided further, That the Director shall publish a notice in the Federal Register governing the allocation and use of the funds under this heading, including provisions for ensuring the compliance of the States with the requirements of this program: Provided further, That 10 days prior to distribution of funds, the Director shall submit a list to the House and Senate Committees on Appropriations setting forth the proposed uses of funds and the most recent estimates of unmet needs: Provided further, That the Director shall submit quarterly reports to said Committees regarding the actual projects and needs for which funds have been provided under this heading: Provided further, That to the extent any funds under this heading are used in a manner inconsistent with the requirements of the program established under this heading and rules issued pursuant thereto, the Director shall recapture an equivalent amount of funds from the State from any existing funds or future funds awarded to the State under this heading or any other program administered by the Federal Emergency Management Agency: Provided further, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That the entire amount shall be available only to the extent an official budget request, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

EMERGENCY MANAGEMENT PLANNING AND ASSISTANCE

For an additional amount for "Emergency management planning and assistance" for emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, \$447,200,000, to remain available until September 30, 2003, of which \$150,000,000 is for programs as authorized by section 33 of the Federal Fire Prevention and Control Act of 1974, as amended (15 U.S.C. 2201 et seq.); \$54,200,000 for the existing national urban search and rescue system; and \$50,000,000 for interoperable communications equipment: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of

the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That \$221,800,000 shall be available only to the extent an official budget request, that includes designation of the \$221,800,000 as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

CERRO GRANDE FIRE CLAIMS

For an additional amount for "Cerro Grande fire claims", \$61,000,000 for claims resulting from the Cerro Grande fires, to remain available until September 30, 2003: Provided, That up to 5 percent of the amount made available under this heading may be used for administrative costs: Provided further, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That the entire amount shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

NATIONAL SCIENCE FOUNDATION

EDUCATION AND HUMAN RESOURCES

For an additional amount for "Education and human resources" for emergency expenses to respond to emergent needs in cyber security, \$19,300,000, to remain available until September 30, 2003: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

GENERAL PROVISIONS—THIS CHAPTER

SEC. 1301. Notwithstanding the first paragraph of the item in title II of Public Law 107-73 relating to "Federal housing administration, Mutual mortgage insurance program account", during fiscal year 2002, commitments to guarantee loans to carry out the purposes of section 203(b) of the National Housing Act shall not exceed a loan principal of \$165,000,000,000.

SEC. 1302. Notwithstanding the first paragraph of the item in title II of Public Law 107-73 related to "Federal housing administration, General and special risk program account", any amounts made available for fiscal year 2002 for the cost of guaranteed loans, as authorized by sections 238 and 519 of the National Housing Act (12 U.S.C. 1715z-3 and 1735c), including the cost of loan guarantee modifications (as that term is defined in section 502 of the Congressional Budget Act of 1974), shall be available to subsidize total loan principal, any part of which is to be guaranteed, of up to \$23,000,000,000.

SEC. 1303. The Secretary of Housing and Urban Development shall begin to enter into new agreements and contracts pursuant to the Asset Control Area Demonstration Program as provided in section 602 of Public Law 105-276 not later than September 15, 2002: Provided, That any agreement or contract entered into pursuant to such program shall be consistent with the requirements of such section 602: Provided further, That the Department shall develop proposed regulations for this program not later than September 15, 2002.

SEC. 1304. The Secretary of Housing and Urban Development shall submit a report every 90 days to the House and Senate Committees on Appropriations on the status of any multifamily housing project (including all hospitals and nursing homes) insured under the National Housing Act that has been in default for longer than 60 days. The report shall include the location of the property, the reason for the default, and all actions taken by the Secretary and owner with regard to the default, including any work-out agreements, the status and terms of any assistance or loans, and any transfer of an

ownership interest in the property (including any assistance or loans made to the prior, current or intended owner of the property or to the local unit of government in which the property is located). The initial report shall be submitted no later than September 16, 2002.

SEC. 1305. For purposes of facilitating the sale of Stafford Apartments (FHA Project No: 052-44163) for use as student housing—

(1) the Secretary of Housing and Urban Development shall renew the section 8 contract that was associated with such property and that expired during fiscal year 2001 at rent levels not to exceed market rents as determined by the Secretary, subject to annual operating cost adjustment factor increases, and subject to such other conditions as the Secretary may determine appropriate, and the renewal of such contract shall be deemed to have taken effect as of October 1, 2001;

(2) prior to sale of this property for student housing, any funds remaining in the property's residual receipts and reserve for replacement accounts shall be used in connection with the relocation of tenants under this section, and any remaining amounts shall be returned to the Secretary;

(3) subject to the concurrence by the Secretary with the relocation plan for current tenants, the payment in full of mortgages on this property insured pursuant to sections 236(j) and 241(a) of the National Housing Act and the resultant termination of the insurance contracts associated with those mortgages, the payment in full of the loan on this property made pursuant to section 201 of the Housing and Community Development Amendments of 1978, and, as of the date of sale, the termination of any assistance under section 236(f)(2) of the National Housing Act and section 8 of the United States Housing Act of 1937 and the return to the Secretary of any such assistance that has not been expended, such property may be sold for use as student housing, notwithstanding any federal use restrictions required pursuant to Section 201 of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1715z-1a) and section 250 of the National Housing Act (12 U.S.C. 1715z-15);

(4) upon the concurrence by the Secretary of such relocation plan and the sale of such property for use as student housing, all of the tenants of such property shall be relocated and shall receive, subject to the availability of funds, tenant-based assistance under section 8(o) of the United States Housing Act of 1937, notwithstanding any rights of such tenants to elect to remain in such property pursuant to section 8(t) of such Act (42 U.S.C. 1437f(t)) or to receive enhanced voucher assistance under such section; and

(5) the provisions of this section shall only remain effective for 24 months from the date of enactment of this section.

CHAPTER 14

GENERAL PROVISIONS

SEC. 1401. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 1402. Notwithstanding any other provision of law, all adjustments made pursuant to section 251(b)(1)(B) of the Balanced Budget and Emergency Deficit Control Act of 1985 to the highway category and to section 8103(a)(5) of the Transportation Equity Act for the 21st Century for fiscal year 2003 shall be deemed to be zero. This section shall apply immediately to all reports issued pursuant to section 254 of the Balanced Budget and Emergency Deficit Control Act of 1985 for fiscal year 2003, including the discretionary sequester preview report.

FEDERAL ADMINISTRATIVE AND TRAVEL EXPENSES (RESCISSIONS)

SEC. 1403. (a) Of the funds available to the agencies of the Federal Government from prior Appropriations Acts, \$350,000,000 are hereby re-

scinded: Provided, That rescissions pursuant to this subsection shall be taken only from administrative and travel accounts: Provided further, That rescissions shall be taken on a pro rata basis from funds available to every Federal agency, department, and office in the executive branch, including the Office of the President.

(b) Within 30 days after the date of the enactment of this Act, the Director of the Office of Management and Budget shall submit to the Committees on Appropriations of the House of Representatives and the Senate a listing of the amounts by account of the reductions made pursuant to the provisions of subsection (a) of this section: Provided, That the Office of Management and Budget shall also include with such listing an explanation of the methodology used to identify the offices, accounts, and amounts to be reduced.

SEC. 1404. Any amount appropriated in this Act for which availability is made contingent by a provision of this Act on designation by the President as an emergency requirement pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985 shall not be available for obligation unless all such contingent amounts are designated by the President, within 30 days of enactment of this Act, as such emergency requirements.

TITLE II—AMERICAN SERVICE- MEMBERS' PROTECTION ACT

SEC. 2001. SHORT TITLE.

This title may be cited as the "American Servicemembers' Protection Act of 2002".

SEC. 2002. FINDINGS.

Congress makes the following findings:

(1) On July 17, 1998, the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court, meeting in Rome, Italy, adopted the "Rome Statute of the International Criminal Court". The vote on whether to proceed with the statute was 120 in favor to 7 against, with 21 countries abstaining. The United States voted against final adoption of the Rome Statute.

(2) As of April 30, 2001, 139 countries had signed the Rome Statute and 30 had ratified it. Pursuant to Article 126 of the Rome Statute, the statute will enter into force on the first day of the month after the 60th day following the date on which the 60th country deposits an instrument ratifying the statute.

(3) Since adoption of the Rome Statute, a Preparatory Commission for the International Criminal Court has met regularly to draft documents to implement the Rome Statute, including Rules of Procedure and Evidence, Elements of Crimes, and a definition of the Crime of Aggression.

(4) During testimony before the Congress following the adoption of the Rome Statute, the lead United States negotiator, Ambassador David Scheffer stated that the United States could not sign the Rome Statute because certain critical negotiating objectives of the United States had not been achieved. As a result, he stated: "We are left with consequences that do not serve the cause of international justice."

(5) Ambassador Scheffer went on to tell the Congress that: "Multinational peacekeeping forces operating in a country that has joined the treaty can be exposed to the Court's jurisdiction even if the country of the individual peacekeeper has not joined the treaty. Thus, the treaty purports to establish an arrangement whereby United States armed forces operating overseas could be conceivably prosecuted by the international court even if the United States has not agreed to be bound by the treaty. Not only is this contrary to the most fundamental principles of treaty law, it could inhibit the ability of the United States to use its military to meet alliance obligations and participate in multinational operations, including humanitarian interventions to save civilian lives. Other contributors to peacekeeping operations will be similarly exposed."

(6) Notwithstanding these concerns, President Clinton directed that the United States sign the Rome Statute on December 31, 2000. In a statement issued that day, he stated that in view of the unremedied deficiencies of the Rome Statute, "I will not, and do not recommend that my successor submit the Treaty to the Senate for advice and consent until our fundamental concerns are satisfied".

(7) Any American prosecuted by the International Criminal Court will, under the Rome Statute, be denied procedural protections to which all Americans are entitled under the Bill of Rights to the United States Constitution, such as the right to trial by jury.

(8) Members of the Armed Forces of the United States should be free from the risk of prosecution by the International Criminal Court, especially when they are stationed or deployed around the world to protect the vital national interests of the United States. The United States Government has an obligation to protect the members of its Armed Forces, to the maximum extent possible, against criminal prosecutions carried out by the International Criminal Court.

(9) In addition to exposing members of the Armed Forces of the United States to the risk of international criminal prosecution, the Rome Statute creates a risk that the President and other senior elected and appointed officials of the United States Government may be prosecuted by the International Criminal Court. Particularly if the Preparatory Commission agrees on a definition of the Crime of Aggression over United States objections, senior United States officials may be at risk of criminal prosecution for national security decisions involving such matters as responding to acts of terrorism, preventing the proliferation of weapons of mass destruction, and deterring aggression. No less than members of the Armed Forces of the United States, senior officials of the United States Government should be free from the risk of prosecution by the International Criminal Court, especially with respect to official actions taken by them to protect the national interests of the United States.

(10) Any agreement within the Preparatory Commission on a definition of the Crime of Aggression that usurps the prerogative of the United Nations Security Council under Article 39 of the charter of the United Nations to "determine the existence of any . . . act of aggression" would contravene the charter of the United Nations and undermine deterrence.

(11) It is a fundamental principle of international law that a treaty is binding upon its parties only and that it does not create obligations for nonparties without their consent to be bound. The United States is not a party to the Rome Statute and will not be bound by any of its terms. The United States will not recognize the jurisdiction of the International Criminal Court over United States nationals.

SEC. 2003. WAIVER AND TERMINATION OF PROHIBITIONS OF THIS TITLE.

(a) **AUTHORITY TO INITIALLY WAIVE SECTIONS 5 AND 7.**—The President is authorized to waive the prohibitions and requirements of sections 2005 and 2007 for a single period of 1 year. A waiver under this subsection may be issued only if the President at least 15 days in advance of exercising such authority—

(1) notifies the appropriate congressional committees of the intention to exercise such authority; and

(2) determines and reports to the appropriate congressional committees that the International Criminal Court has entered into a binding agreement that—

(A) prohibits the International Criminal Court from seeking to exercise jurisdiction over the following persons with respect to actions undertaken by them in an official capacity:

- (i) covered United States persons;
- (ii) covered allied persons; and
- (iii) individuals who were covered United States persons or covered allied persons; and

(B) ensures that no person described in subparagraph (A) will be arrested, detained, prosecuted, or imprisoned by or on behalf of the International Criminal Court.

(b) **AUTHORITY TO EXTEND WAIVER OF SECTIONS 5 AND 7.**—The President is authorized to waive the prohibitions and requirements of sections 2005 and 2007 for successive periods of 1 year each upon the expiration of a previous waiver pursuant to subsection (a) or this subsection. A waiver under this subsection may be issued only if the President at least 15 days in advance of exercising such authority—

(1) notifies the appropriate congressional committees of the intention to exercise such authority; and

(2) determines and reports to the appropriate congressional committees that the International Criminal Court—

(A) remains party to, and has continued to abide by, a binding agreement that—

(i) prohibits the International Criminal Court from seeking to exercise jurisdiction over the following persons with respect to actions undertaken by them in an official capacity:

- (I) covered United States persons;
- (II) covered allied persons; and
- (III) individuals who were covered United States persons or covered allied persons; and

(ii) ensures that no person described in clause (i) will be arrested, detained, prosecuted, or imprisoned by or on behalf of the International Criminal Court; and

(B) has taken no steps to arrest, detain, prosecute, or imprison any person described in clause (i) of subparagraph (A).

(c) **AUTHORITY TO WAIVE SECTIONS 4 AND 6 WITH RESPECT TO AN INVESTIGATION OR PROSECUTION OF A NAMED INDIVIDUAL.**—The President is authorized to waive the prohibitions and requirements of sections 2004 and 2006 to the degree such prohibitions and requirements would prevent United States cooperation with an investigation or prosecution of a named individual by the International Criminal Court. A waiver under this subsection may be issued only if the President at least 15 days in advance of exercising such authority—

(1) notifies the appropriate congressional committees of the intention to exercise such authority; and

(2) determines and reports to the appropriate congressional committees that—

(A) a waiver pursuant to subsection (a) or (b) of the prohibitions and requirements of sections 2005 and 2007 is in effect;

(B) there is reason to believe that the named individual committed the crime or crimes that are the subject of the International Criminal Court's investigation or prosecution;

(C) it is in the national interest of the United States for the International Criminal Court's investigation or prosecution of the named individual to proceed; and

(D) in investigating events related to actions by the named individual, none of the following persons will be investigated, arrested, detained, prosecuted, or imprisoned by or on behalf of the International Criminal Court with respect to actions undertaken by them in an official capacity:

- (i) Covered United States persons.
- (ii) Covered allied persons.
- (iii) Individuals who were covered United States persons or covered allied persons.

(d) **TERMINATION OF WAIVER PURSUANT TO SUBSECTION (c).**—Any waiver or waivers exercised pursuant to subsection (c) of the prohibitions and requirements of sections 2004 and 2006 shall terminate at any time that a waiver pursuant to subsection (a) or (b) of the prohibitions and requirements of sections 2005 and 2007 expires and is not extended pursuant to subsection (b).

(e) **TERMINATION OF PROHIBITIONS OF THIS TITLE.**—The prohibitions and requirements of sections 2004, 2005, 2006, and 2007 shall cease to apply, and the authority of section 2008 shall

terminate, if the United States becomes a party to the International Criminal Court pursuant to a treaty made under article II, section 2, clause 2 of the Constitution of the United States.

SEC. 2004. PROHIBITION ON COOPERATION WITH THE INTERNATIONAL CRIMINAL COURT.

(a) **APPLICATION.**—The provisions of this section—

(1) apply only to cooperation with the International Criminal Court and shall not apply to cooperation with an ad hoc international criminal tribunal established by the United Nations Security Council before or after the date of the enactment of this Act to investigate and prosecute war crimes committed in a specific country or during a specific conflict; and

(2) shall not prohibit—

(A) any action permitted under section 2008; or

(B) communication by the United States of its policy with respect to a matter.

(b) **PROHIBITION ON RESPONDING TO REQUESTS FOR COOPERATION.**—Notwithstanding section 1782 of title 28, United States Code, or any other provision of law, no United States Court, and no agency or entity of any State or local government, including any court, may cooperate with the International Criminal Court in response to a request for cooperation submitted by the International Criminal Court pursuant to the Rome Statute.

(c) **PROHIBITION ON TRANSMITTAL OF LETTERS ROGATORY FROM THE INTERNATIONAL CRIMINAL COURT.**—Notwithstanding section 1781 of title 28, United States Code, or any other provision of law, no agency of the United States Government may transmit for execution any letter rogatory issued, or other request for cooperation made, by the International Criminal Court to the tribunal, officer, or agency in the United States to whom it is addressed.

(d) **PROHIBITION ON EXTRADITION TO THE INTERNATIONAL CRIMINAL COURT.**—Notwithstanding any other provision of law, no agency or entity of the United States Government or of any State or local government may extradite any person from the United States to the International Criminal Court, nor support the transfer of any United States citizen or permanent resident alien to the International Criminal Court.

(e) **PROHIBITION ON PROVISION OF SUPPORT TO THE INTERNATIONAL CRIMINAL COURT.**—Notwithstanding any other provision of law, no agency or entity of the United States Government or of any State or local government, including any court, may provide support to the International Criminal Court.

(f) **PROHIBITION ON USE OF APPROPRIATED FUNDS TO ASSIST THE INTERNATIONAL CRIMINAL COURT.**—Notwithstanding any other provision of law, no funds appropriated under any provision of law may be used for the purpose of assisting the investigation, arrest, detention, extradition, or prosecution of any United States citizen or permanent resident alien by the International Criminal Court.

(g) **RESTRICTION ON ASSISTANCE PURSUANT TO MUTUAL LEGAL ASSISTANCE TREATIES.**—The United States shall exercise its rights to limit the use of assistance provided under all treaties and executive agreements for mutual legal assistance in criminal matters, multilateral conventions with legal assistance provisions, and extradition treaties, to which the United States is a party, and in connection with the execution or issuance of any letter rogatory, to prevent the transfer to, or other use by, the International Criminal Court of any assistance provided by the United States under such treaties and letters rogatory.

(h) **PROHIBITION ON INVESTIGATIVE ACTIVITIES OF AGENTS.**—No agent of the International Criminal Court may conduct, in the United States or any territory subject to the jurisdiction of the United States, any investigative activity relating to a preliminary inquiry, investigation,

prosecution, or other proceeding at the International Criminal Court.

SEC. 2005. RESTRICTION ON UNITED STATES PARTICIPATION IN CERTAIN UNITED NATIONS PEACEKEEPING OPERATIONS.

(a) **POLICY.**—Effective beginning on the date on which the Rome Statute enters into force pursuant to Article 126 of the Rome Statute, the President should use the voice and vote of the United States in the United Nations Security Council to ensure that each resolution of the Security Council authorizing any peacekeeping operation under chapter VI of the charter of the United Nations or peace enforcement operation under chapter VII of the charter of the United Nations permanently exempts, at a minimum, members of the Armed Forces of the United States participating in such operation from criminal prosecution or other assertion of jurisdiction by the International Criminal Court for actions undertaken by such personnel in connection with the operation.

(b) **RESTRICTION.**—Members of the Armed Forces of the United States may not participate in any peacekeeping operation under chapter VI of the charter of the United Nations or peace enforcement operation under chapter VII of the charter of the United Nations, the creation of which is authorized by the United Nations Security Council on or after the date that the Rome Statute enters into effect pursuant to Article 126 of the Rome Statute, unless the President has submitted to the appropriate congressional committees a certification described in subsection (c) with respect to such operation.

(c) **CERTIFICATION.**—The certification referred to in subsection (b) is a certification by the President that—

(1) members of the Armed Forces of the United States are able to participate in the peacekeeping or peace enforcement operation without risk of criminal prosecution or other assertion of jurisdiction by the International Criminal Court because, in authorizing the operation, the United Nations Security Council permanently exempted, at a minimum, members of the Armed Forces of the United States participating in the operation from criminal prosecution or other assertion of jurisdiction by the International Criminal Court for actions undertaken by them in connection with the operation;

(2) members of the Armed Forces of the United States are able to participate in the peacekeeping or peace enforcement operation without risk of criminal prosecution or other assertion of jurisdiction by the International Criminal Court because each country in which members of the Armed Forces of the United States participating in the operation will be present either is not a party to the International Criminal Court and has not invoked the jurisdiction of the International Criminal Court pursuant to Article 12 of the Rome Statute, or has entered into an agreement in accordance with Article 98 of the Rome Statute preventing the International Criminal Court from proceeding against members of the Armed Forces of the United States present in that country; or

(3) the national interests of the United States justify participation by members of the Armed Forces of the United States in the peacekeeping or peace enforcement operation.

SEC. 2006. PROHIBITION ON DIRECT OR INDIRECT TRANSFER OF CLASSIFIED NATIONAL SECURITY INFORMATION AND LAW ENFORCEMENT INFORMATION TO THE INTERNATIONAL CRIMINAL COURT.

(a) **IN GENERAL.**—Not later than the date on which the Rome Statute enters into force, the President shall ensure that appropriate procedures are in place to prevent the transfer of classified national security information and law enforcement information to the International Criminal Court for the purpose of facilitating an investigation, apprehension, or prosecution.

(b) **INDIRECT TRANSFER.**—The procedures adopted pursuant to subsection (a) shall be de-

signed to prevent the transfer to the United Nations and to the government of any country that is party to the International Criminal Court of classified national security information and law enforcement information that specifically relates to matters known to be under investigation or prosecution by the International Criminal Court, except to the degree that satisfactory assurances are received from the United Nations or that government, as the case may be, that such information will not be made available to the International Criminal Court for the purpose of facilitating an investigation, apprehension, or prosecution.

(c) **CONSTRUCTION.**—The provisions of this section shall not be construed to prohibit any action permitted under section 2008.

SEC. 2007. PROHIBITION OF UNITED STATES MILITARY ASSISTANCE TO PARTIES TO THE INTERNATIONAL CRIMINAL COURT.

(a) **PROHIBITION OF MILITARY ASSISTANCE.**—Subject to subsections (b) and (c), and effective 1 year after the date on which the Rome Statute enters into force pursuant to Article 126 of the Rome Statute, no United States military assistance may be provided to the government of a country that is a party to the International Criminal Court.

(b) **NATIONAL INTEREST WAIVER.**—The President may, without prior notice to Congress, waive the prohibition of subsection (a) with respect to a particular country if he determines and reports to the appropriate congressional committees that it is important to the national interest of the United States to waive such prohibition.

(c) **ARTICLE 98 WAIVER.**—The President may, without prior notice to Congress, waive the prohibition of subsection (a) with respect to a particular country if he determines and reports to the appropriate congressional committees that such country has entered into an agreement with the United States pursuant to Article 98 of the Rome Statute preventing the International Criminal Court from proceeding against United States personnel present in such country.

(d) **EXEMPTION.**—The prohibition of subsection (a) shall not apply to the government of—

(1) a NATO member country;

(2) a major non-NATO ally (including Australia, Egypt, Israel, Japan, Jordan, Argentina, the Republic of Korea, and New Zealand); or

(3) Taiwan.

SEC. 2008. AUTHORITY TO FREE MEMBERS OF THE ARMED FORCES OF THE UNITED STATES AND CERTAIN OTHER PERSONS DETAINED OR IMPRISONED BY OR ON BEHALF OF THE INTERNATIONAL CRIMINAL COURT.

(a) **AUTHORITY.**—The President is authorized to use all means necessary and appropriate to bring about the release of any person described in subsection (b) who is being detained or imprisoned by, on behalf of, or at the request of the International Criminal Court.

(b) **PERSONS AUTHORIZED TO BE FREED.**—The authority of subsection (a) shall extend to the following persons:

(1) Covered United States persons.

(2) Covered allied persons.

(3) Individuals detained or imprisoned for official actions taken while the individual was a covered United States person or a covered allied person, and in the case of a covered allied person, upon the request of such government.

(c) **AUTHORIZATION OF LEGAL ASSISTANCE.**—When any person described in subsection (b) is arrested, detained, investigated, prosecuted, or imprisoned by, on behalf of, or at the request of the International Criminal Court, the President is authorized to direct any agency of the United States Government to provide—

(1) legal representation and other legal assistance to that person (including, in the case of a person entitled to assistance under section 1037 of title 10, United States Code, representation

and other assistance in the manner provided in that section);

(2) exculpatory evidence on behalf of that person; and

(3) defense of the interests of the United States through appearance before the International Criminal Court pursuant to Article 18 or 19 of the Rome Statute, or before the courts or tribunals of any country.

(d) **BRIBES AND OTHER INDUCEMENTS NOT AUTHORIZED.**—This section does not authorize the payment of bribes or the provision of other such incentives to induce the release of a person described in subsection (b).

SEC. 2009. ALLIANCE COMMAND ARRANGEMENTS.

(a) **REPORT ON ALLIANCE COMMAND ARRANGEMENTS.**—Not later than 6 months after the date of the enactment of this Act, the President should transmit to the appropriate congressional committees a report with respect to each military alliance to which the United States is party—

(1) describing the degree to which members of the Armed Forces of the United States may, in the context of military operations undertaken by or pursuant to that alliance, be placed under the command or operational control of foreign military officers subject to the jurisdiction of the International Criminal Court because they are nationals of a party to the International Criminal Court; and

(2) evaluating the degree to which members of the Armed Forces of the United States engaged in military operations undertaken by or pursuant to that alliance may be exposed to greater risks as a result of being placed under the command or operational control of foreign military officers subject to the jurisdiction of the International Criminal Court.

(b) **DESCRIPTION OF MEASURES TO ACHIEVE ENHANCED PROTECTION FOR MEMBERS OF THE ARMED FORCES OF THE UNITED STATES.**—Not later than 1 year after the date of the enactment of this Act, the President should transmit to the appropriate congressional committees a description of modifications to command and operational control arrangements within military alliances to which the United States is a party that could be made in order to reduce any risks to members of the Armed Forces of the United States identified pursuant to subsection (a)(2).

(c) **SUBMISSION IN CLASSIFIED FORM.**—The report under subsection (a), and the description of measures under subsection (b), or appropriate parts thereof, may be submitted in classified form.

SEC. 2010. WITHHOLDINGS.

Funds withheld from the United States share of assessments to the United Nations or any other international organization during any fiscal year pursuant to section 705 of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (as enacted by section 1000(a)(7) of Public Law 106-113; 113 Stat. 1501A-460), are authorized to be transferred to the Embassy Security, Construction and Maintenance Account of the Department of State.

SEC. 2011. APPLICATION OF SECTIONS 2004 AND 2006 TO EXERCISE OF CONSTITUTIONAL AUTHORITIES.

(a) **IN GENERAL.**—Sections 2004 and 2006 shall not apply to any action or actions with respect to a specific matter involving the International Criminal Court taken or directed by the President on a case-by-case basis in the exercise of the President's authority as Commander in Chief of the Armed Forces of the United States under article II, section 2 of the United States Constitution or in the exercise of the executive power under article II, section 1 of the United States Constitution.

(b) **NOTIFICATION TO CONGRESS.**—

(1) **IN GENERAL.**—Subject to paragraph (2), not later than 15 days after the President takes or directs an action or actions described in subsection (a) that would otherwise be prohibited under section 2004 or 2006, the President shall

submit a notification of such action to the appropriate congressional committees. A notification under this paragraph shall include a description of the action, a determination that the action is in the national interest of the United States, and a justification for the action.

(2) **EXCEPTION.**—If the President determines that a full notification under paragraph (1) could jeopardize the national security of the United States or compromise a United States law enforcement activity, not later than 15 days after the President takes or directs an action or actions referred to in paragraph (1) the President shall notify the appropriate congressional committees that an action has been taken and a determination has been made pursuant to this paragraph. The President shall provide a full notification under paragraph (1) not later than 15 days after the reasons for the determination under this paragraph no longer apply.

(c) **CONSTRUCTION.**—Nothing in this section shall be construed as a grant of statutory authority to the President to take any action.

SEC. 2012. NONDELEGATION.

The authorities vested in the President by sections 2003 and 2011(a) may not be delegated by the President pursuant to section 301 of title 3, United States Code, or any other provision of law. The authority vested in the President by section 2005(c)(3) may not be delegated by the President pursuant to section 301 of title 3, United States Code, or any other provision of law to any official other than the Secretary of Defense, and if so delegated may not be subdelegated.

SEC. 2013. DEFINITIONS.

As used in this title and in section 706 of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001:

(1) **APPROPRIATE CONGRESSIONAL COMMITTEES.**—The term “appropriate congressional committees” means the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate.

(2) **CLASSIFIED NATIONAL SECURITY INFORMATION.**—The term “classified national security information” means information that is classified or classifiable under Executive Order 12958 or a successor Executive order.

(3) **COVERED ALLIED PERSONS.**—The term “covered allied persons” means military personnel, elected or appointed officials, and other persons employed by or working on behalf of the government of a NATO member country, a major non-NATO ally (including Australia, Egypt, Israel, Japan, Jordan, Argentina, the Republic of Korea, and New Zealand), or Taiwan, for so long as that government is not a party to the International Criminal Court and wishes its officials and other persons working on its behalf to be exempted from the jurisdiction of the International Criminal Court.

(4) **COVERED UNITED STATES PERSONS.**—The term “covered United States persons” means members of the Armed Forces of the United States, elected or appointed officials of the United States Government, and other persons employed by or working on behalf of the United States Government, for so long as the United States is not a party to the International Criminal Court.

(5) **EXTRADITION.**—The terms “extradition” and “extradite” mean the extradition of a person in accordance with the provisions of chapter 209 of title 18, United States Code, (including section 3181(b) of such title) and such terms include both extradition and surrender as those terms are defined in Article 102 of the Rome Statute.

(6) **INTERNATIONAL CRIMINAL COURT.**—The term “International Criminal Court” means the court established by the Rome Statute.

(7) **MAJOR NON-NATO ALLY.**—The term “major non-NATO ally” means a country that has been so designated in accordance with section 517 of the Foreign Assistance Act of 1961.

(8) **PARTICIPATE IN ANY PEACEKEEPING OPERATION UNDER CHAPTER VI OF THE CHARTER OF THE UNITED NATIONS OR PEACE ENFORCEMENT OPERATION UNDER CHAPTER VII OF THE CHARTER OF THE UNITED NATIONS.**—The term “participate in any peacekeeping operation under chapter VI of the charter of the United Nations or peace enforcement operation under chapter VII of the charter of the United Nations” means to assign members of the Armed Forces of the United States to a United Nations military command structure as part of a peacekeeping operation under chapter VI of the charter of the United Nations or peace enforcement operation under chapter VII of the charter of the United Nations in which those members of the Armed Forces of the United States are subject to the command or operational control of one or more foreign military officers not appointed in conformity with article II, section 2, clause 2 of the Constitution of the United States.

(9) **PARTY TO THE INTERNATIONAL CRIMINAL COURT.**—The term “party to the International Criminal Court” means a government that has deposited an instrument of ratification, acceptance, approval, or accession to the Rome Statute, and has not withdrawn from the Rome Statute pursuant to Article 127 thereof.

(10) **PEACEKEEPING OPERATION UNDER CHAPTER VI OF THE CHARTER OF THE UNITED NATIONS OR PEACE ENFORCEMENT OPERATION UNDER CHAPTER VII OF THE CHARTER OF THE UNITED NATIONS.**—The term “peacekeeping operation under chapter VI of the charter of the United Nations or peace enforcement operation under chapter VII of the charter of the United Nations” means any military operation to maintain or restore international peace and security that—

(A) is authorized by the United Nations Security Council under chapter VI or VII of the charter of the United Nations; and

(B) is paid for from assessed contributions of United Nations members that are made available for peacekeeping or peace enforcement activities.

(11) **ROME STATUTE.**—The term “Rome Statute” means the Rome Statute of the International Criminal Court, adopted by the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court on July 17, 1998.

(12) **SUPPORT.**—The term “support” means assistance of any kind, including financial support, transfer of property or other material support, services, intelligence sharing, law enforcement cooperation, the training or detail of personnel, and the arrest or detention of individuals.

(13) **UNITED STATES MILITARY ASSISTANCE.**—The term “United States military assistance” means—

(A) assistance provided under chapter 2 or 5 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.); or

(B) defense articles or defense services furnished with the financial assistance of the United States Government, including through loans and guarantees, under section 23 of the Arms Export Control Act (22 U.S.C. 2763).

SEC. 2014. REPEAL OF LIMITATION.

The Department of Defense Appropriations Act, 2002 (division A of Public Law 107-117) is amended by striking section 8173.

SEC. 2015. ASSISTANCE TO INTERNATIONAL EFFORTS.

Nothing in this title shall prohibit the United States from rendering assistance to international efforts to bring to justice Saddam Hussein, Slobodan Milosovic, Osama bin Laden, other members of Al Qaeda, leaders of Islamic Jihad, and other foreign nationals accused of genocide, war crimes or crimes against humanity.

TITLE III—OTHER MATTERS

SEC. 3001. AMENDMENTS TO THE CARIBBEAN BASIN ECONOMIC RECOVERY ACT.

Section 213(b)(2)(A) of the Caribbean Basin Economic Recovery Act (title II of Public Law 98-67; 19 U.S.C. 2703(b)(2)(A)) is amended—

(1) in clause (i), by adding at the end the following:

“Apparel articles shall qualify under the preceding sentence only if all dyeing, printing, and finishing of the fabrics from which the articles are assembled, if the fabrics are knit fabrics, is carried out in the United States. Apparel articles shall qualify under the first sentence of this clause only if all dyeing, printing, and finishing of the fabrics from which the articles are assembled, if the fabrics are woven fabrics, is carried out in the United States.”; and

(2) in clause (ii), by adding at the end the following:

“Apparel articles shall qualify under the preceding sentence only if all dyeing, printing, and finishing of the fabrics from which the articles are assembled, if the fabrics are knit fabrics, is carried out in the United States. Apparel articles shall qualify under the first sentence of this clause only if all dyeing, printing, and finishing of the fabrics from which the articles are assembled, if the fabrics are woven fabrics, is carried out in the United States.”.

(b) **ANDEAN TRADE PREFERENCE ACT.**—Any duty free or other preferential treatment provided under the Andean Trade Preference Act to apparel articles assembled from fabric formed in the United States shall apply to such articles only if all dyeing, printing, and finishing of the fabrics from which the articles are assembled if the fabrics are knit fabrics, is carried out in the United States. Any duty-free or other preferential treatment provided under the Andean Trade Preference Act to apparel articles assembled from fabric formed in the United States shall apply to such articles only if all dyeing, printing, and finishing of the fabrics from which the articles are assembled if the fabrics are woven fabrics, is carried out in the United States.

(c) **EFFECTIVE DATE.**—Subsection (b) and the amendments made by subsection (a) shall take effect—

(1) 90 days after the date of the enactment of this Act, or

(2) September 1, 2002, whichever occurs first.

SEC. 3002. RURAL SERVICE IMPROVEMENT.

(a) **SHORT TITLE.**—This title may be cited as the “Rural Service Improvement Act of 2002”.

(b) **FINDINGS.**—Congress makes the following findings:

(1) The State of Alaska is the largest State in the Union and has a very limited system of roads connecting communities.

(2) Alaska has more pilots per capita than any other State in the Union.

(3) Pilots flying in Alaska are often the most skilled and best-prepared pilots in the world.

(4) Air travel within the State of Alaska is often hampered by severe weather conditions and treacherous terrain.

(5) The United States Government owns nearly ⅔ of Alaska’s landmass, including large tracts of land separating isolated communities within the State.

(6) Such Federal ownership has inhibited the ability of Alaskans to build roads connecting isolated communities.

(7) Most communities and a large portion of the population within the State can only be reached by air.

(8) The vast majority of food items and everyday necessities destined for these isolated communities and populations can only be transported through the air.

(9) The Intra-Alaska Bypass Mail system, created by Congress and operated by the United States Postal Service under section 5402 of title 39, United States Code, with input from the Department of Transportation, connecting hundreds of rural and isolated communities within

the State, is a critical piece of the Alaska and the national transportation system. The system is like a 4-legged stool, designed to—

(A) provide the most affordable means of delivering food and everyday necessities to these rural and isolated communities;

(B) establish a system whereby the Postal Service can meet its obligations to deliver mail to every house and business in the United States;

(C) support affordable and reliable passenger service; and

(D) support affordable and reliable nonmail freight service.

(10) Without the Intra-Alaska Bypass Mail system—

(A) it would be difficult and more expensive for the Postal Service to meet its obligation of delivering mail to every house and business in the United States; and

(B) food, medicine, freight, and everyday necessities and passenger service for these rural and isolated communities would cost several times the current level.

(11) Attempts by Congress to support passenger and nonmail freight service in Alaska using the Intra-Alaska Bypass Mail system have yielded some positive results, but some carriers have been manipulating the system by carrying few, if any, passengers and little nonmail freight while earning most of their revenues from the carriage of nonpriority bypass mail.

(12) As long as the Federal Government continues to own large tracts of land within the State of Alaska which impede access to isolated communities, it is in the best interest of the Postal Service, the residents of Alaska and the United States—

(A) to ensure that the Intra-Alaska Bypass Mail system remains strong, viable, and affordable for the Postal Service;

(B) to ensure that residents of rural and isolated communities in Alaska continue to have affordable, reliable, and safe passenger service;

(C) to ensure that residents of rural and isolated communities in Alaska continue to have affordable, reliable, and safe nonmail freight service;

(D) to encourage that intra-Alaska air carriers move toward safer, more secure, and more reliable air transportation under the Federal Aviation Administration's guidelines and in accordance with part 121 of title 14, Code of Federal Regulations, where such operations are supported by the needs of the community; and

(E) that Congress, pursuant to the authority granted under Article I, section 8 of the United States Constitution to establish Post Offices and post roads, make changes to ensure that the Intra-Alaska Bypass Mail system continues to be used to support substantial passenger and nonmail freight service and to reduce costs for the Postal Service.

(c) **SELECTION OF CARRIERS OF NONPRIORITY BYPASS MAIL TO CERTAIN POINTS IN ALASKA.**—

(1) **DEFINITIONS.**—Section 5402 of title 39, United States Code, is amended—

(A) by striking subsection (e);

(B) by redesignating subsections (a) through (d) as subsections (b) through (e), respectively; and

(C) by inserting before subsection (b), as redesignated, the following:

“(a) In this section—

“(1) the term ‘acceptance point’ means the point at which nonpriority bypass mail originates;

“(2) the terms ‘air carrier’, ‘interstate air transportation’, and ‘foreign air transportation’ have the meanings given such terms in section 40102(a) of title 49, United States Code;

“(3) the term ‘base fare’ means the fare paid to the carrier issuing the passenger ticket or carrying nonmail freight which may entail service being provided by more than 1 carrier;

“(4) the term ‘bush carrier’ means a carrier operating aircraft certificated within the payload capacity requirements of subsection (g)(1)(D)(i) on a city pair route;

“(5) the term ‘bush passenger carrier’ means a passenger carrier that meets the requirements of subsection (g)(1)(D)(i) and provides passenger service on a city pair route;

“(6) the term ‘bush route’ means an air route in which only a bush carrier is tendered nonpriority bypass mail between the origination point, being either an acceptance point or a hub, as determined by the Postal Service, and the destination city;

“(7) the term ‘city pair’ means service between an origin and destination city pair;

“(8) the term ‘composite rate’—

“(A) means a combination of mainline and bush rates paid to a bush carrier for a direct flight from an acceptance point to a bush destination beyond a hub point; and

“(B) shall be based on the mainline rate paid to the hub, plus the lowest bush rate paid to bush carriers in the State of Alaska for the distance traveled from the hub point to the destination point;

“(9) the term ‘equitable tender’ means the practice of the Postal Service of equitably distributing mail on a fair and reasonable basis between those air carriers that offer equivalent services and costs between 2 communities in accordance with the regulations of the Postal Service;

“(10) the term ‘existing mainline carrier’ means a mainline carrier (as defined in this subsection) that on January 1, 2001, was—

“(A) certified under part 121;

“(B) qualified to provide mainline nonpriority bypass mail service; and

“(C) actually engaged in the carriage of mainline nonpriority bypass mail through scheduled service in the State of Alaska;

“(11) the term ‘mainline carrier’ means a carrier operating aircraft under part 121 and certificated within the payload capacity requirements of subsection (g)(1)(D)(ii) on a given city pair route;

“(12) the term ‘mainline route’ means a city pair in which a mainline carrier is tendered nonpriority bypass mail;

“(13) the term ‘new’, when referencing a carrier, means a carrier that—

“(A) meets the respective requirements of clause (i) or (ii) of subsection (g)(1)(D), depending on the type of route being served and the size of aircraft being used to provide service; and

“(B) began providing nonpriority bypass mail service on a city pair route in the State of Alaska after January 1, 2001;

“(14) the term ‘part 121’ means part 121 of title 14, Code of Federal Regulations;

“(15) the term ‘part 135’ means part 135 of title 14, Code of Federal Regulations;

“(16) the term ‘scheduled service’ means—

“(A) flights are operated in common carriage available to the general public under a published schedule;

“(B) flight schedules are announced in advance in systems specified by the Postal Service, in addition to the Official Airline Guide or the air cargo equivalent of that Guide;

“(C) flights depart whether full or not; and

“(D) customers contract for carriage separately on a regular basis;

“(17) the term ‘Secretary’ means the Secretary of Transportation;

“(18) the term ‘121 bush passenger carrier’ means a bush passenger carrier providing passenger service on bush routes under part 121;

“(19) the term ‘121 mainline passenger carrier’ means a mainline carrier providing passenger service through scheduled service on routes under part 121;

“(20) the term ‘121 passenger aircraft’ means an aircraft flying passengers on a city pair route that is operated under part 121;

“(21) the term ‘121 passenger carrier’ means a passenger carrier that provides scheduled service under part 121;

“(22) the term ‘135 bush passenger carrier’ means a bush passenger carrier providing pas-

senger service through scheduled service on bush routes under part 135; and

“(23) the term ‘135 passenger carrier’ means a passenger carrier that provides scheduled service under part 135.”.

(2) **REQUIREMENTS FOR SELECTION.**—Section 5402(g)(1) of title 39, United States Code, is amended—

(A) in the matter preceding subparagraph (A), by inserting after “in the State of Alaska,” the following: “shall adhere to an equitable tender policy within a qualified group of carriers, in accordance with the regulations of the Postal Service, and”;

(B) in subparagraph (C) by striking “to the best” and all that follows before the semicolon; and

(C) in subparagraph (D) by inserting “with at least 3 scheduled (noncontract) flights per week between two points” after “scheduled service”.

(3) **APPLICATION OF RATES.**—Section 5402(g)(2) of title 39, United States Code, is amended—

(A) by striking “and” at the end of subparagraph (A);

(B) by striking the period at the end of subparagraph (B) and inserting a semicolon; and

(C) by adding at the end the following:

“(C) shall offer a bush passenger carrier providing service on a route in the State of Alaska between an acceptance point and a hub not served by a mainline carrier the opportunity to receive equitable tender of nonpriority bypass mail at mainline service rates when a mainline carrier begins serving that route if the bush passenger carrier—

“(i) meets the requirements of paragraph (1);

“(ii) provided at least 20 percent of the passenger service (as calculated in subsection (h)(5)) between such city pair for the 6 months immediately preceding the date on which the bush carrier seeks such tender; and

“(iii) continues to provide not less than 20 percent of the passenger service on the city pair while seeking such tender;

“(D) shall offer bush passenger carriers and nonmail freight carriers the opportunity to receive equitable tender of nonpriority bypass mail at mainline service rates from a hub point to a destination city in the State of Alaska if the city pair is also being served by a mainline carrier and—

“(i) for a passenger carrier—

“(I) the carrier meets the requirements of paragraph (1);

“(II) the carrier provided at least 20 percent of the passenger service (as calculated in subsection (h)(5)) on the city pair route for the 6 months immediately preceding the date on which the carrier seeks such tender; and

“(III) the carrier continues to provide not less than 20 percent of the passenger service on the route; or

“(ii) for a nonmail freight carrier—

“(I) the carrier meets the requirements of paragraph (1); and

“(II) the carrier provided at least 25 percent of the nonmail freight service (as calculated in subsection (i)(6)) on the city pair route for the 6 months immediately preceding the date on which the carrier seeks such tender;

“(E)(i) shall not offer equitable tender of nonpriority mainline bypass mail at mainline rates to a bush carrier operating from an acceptance point to a hub point in the State of Alaska, except as described in subparagraph (C); and

“(ii) may tender nonpriority bypass mail at bush rates to a bush carrier from an acceptance point to a hub point in the State of Alaska if the Postal Service determines that—

“(I) the bush carrier meets the requirements of paragraph (1);

“(II) the service to be provided on such route by the bush carrier is not otherwise available through direct mainline service; and

“(III) tender of mail to such bush carrier will not decrease the efficiency of nonpriority bypass mail service (in terms of payments to all carriers providing service on the city pair route and timely delivery) for the route;

“(F) may offer tender of nonpriority bypass mail to a passenger carrier from an acceptance point to a destination city beyond a hub point in the State of Alaska at a composite rate if the Postal Service determines that—

“(i) the carrier provides passenger service in accordance with the requirements of subsection (h)(2);

“(ii) the carrier qualifies under subsection (h) to be tendered nonpriority bypass mail out of the hub point being bypassed;

“(iii) the tender of such mail will not decrease efficiency of delivery of nonpriority bypass mail service into or out of the hub point being bypassed; and

“(iv) such tender will result in reduced payments to the carrier by the Postal Service over flying the entire route; and

“(G) notwithstanding subparagraph (F), shall offer equitable tender of nonpriority bypass mail in proportion to passenger and nonmail freight mail pools described in this section between qualified passenger and nonmail freight carriers on a route from an acceptance point to a bush destination in the State of Alaska at a composite rate if—

“(i)(I) for a passenger carrier, the carrier receiving the composite rate provided 20 percent of the passenger service on the city pair route for the 12 months immediately preceding the date on which the carrier seeks tender of such mail; or

“(II) for a nonmail freight carrier, the carrier receiving the composite rate provided at least 25 percent of the nonmail freight service for the 12 months immediately preceding the date on which the carrier seeks tender of such mail; and

“(ii)(I) nonpriority bypass mail was being tendered to a passenger carrier or a nonmail freight carrier at a composite rate on such city pair route on January 1, 2000; or

“(II) the hub being bypassed was not served by a mainline carrier on January 1, 2000.

The tender of nonpriority bypass mail under subparagraph (G) shall be on an equitable basis between the qualified carriers that provide the direct service on the city pair route and the qualified carriers that provide service between the hub point being bypassed and the destination point, based on the volume of nonpriority bypass mail on both routes.”.

(4) SELECTION OF CARRIERS TO HUB POINTS.—Section 5402(g) of title 39, United States Code, is amended by adding at the end the following:

“(4)(A) Except as provided under subparagraph (B) and paragraph (5), the Postal Service shall select only existing mainline carriers to provide nonpriority bypass mail service between an acceptance point and a hub point in the State of Alaska.

“(B) The Postal Service may select a carrier other than an existing mainline carrier to provide nonpriority bypass mail service on a mainline route in the State of Alaska if—

“(i) the Postal Service determines (in accordance with criteria established in advance by the Postal Service) that the mail service between the acceptance point and the hub point is deficient and provides written notice of the determination to existing mainline carriers to the hub point; and

“(ii) after the 30-day period following issuance of notice under clause (i), including notice of inadequate capacity, the Postal Service determines that deficiencies in service to the hub point have not been eliminated.

“(5)(A) The Postal Service shall offer equitable tender of nonpriority bypass mail to a new 121 mainline passenger carrier entering a mainline route in the State of Alaska, if the carrier—

“(i) meets the requirements of subsection (g)(1)(D)(ii); and

“(ii) has provided at least 75 percent of the number of insured passenger seats as the number of available passenger seats being provided by the mainline passenger carrier providing the greatest number of available passenger seats on that route for the 6 months immediately preceding the date on which the carrier seeks tender of such mail.

“(B) A new 121 mainline passenger carrier that is tendered nonpriority mainline bypass mail under subparagraph (A)—

“(i) shall be eligible for equitable tender of such mail only on city pair routes where the carrier meets the conditions of subparagraph (A);

“(ii) may not count the passenger service provided under subparagraph (A) toward the carrier meeting the minimum requirements of this section; and

“(iii) shall provide at least 20 percent of the passenger service (as determined for bush passenger carriers in subsection (h)(5)) on such route to remain eligible to be tendered nonpriority mainline bypass mail.

“(C) Notwithstanding subparagraph (A) and paragraph (1)(B), a new 121 mainline passenger carrier, otherwise qualified under this subsection, may immediately receive equitable tender of nonpriority mainline bypass mail to a hub point in the State of Alaska if the carrier meets the requirements of subparagraphs (A), (C), and (D) of paragraph (1) and subsection (h)(2)(B) and—

“(i) all qualified 121 mainline passenger carriers discontinue service on the city pair route; or

“(ii) no 121 mainline passenger carrier serves the city pair route.

“(D) A carrier operating under a code share agreement on the date of enactment of the Rural Service Improvement Act of 2002 that received tender of nonpriority mainline bypass mail on a city pair route in the State of Alaska may count the passenger service provided under the entire code share arrangement on such route if the code share agreement terminates. That carrier shall continue to provide at least 20 percent of the passenger service (as determined for bush passenger carriers in subsection (h)(5)) between the city pair as a 121 mainline passenger carrier while seeking such tender.

“(6)(A) Notwithstanding paragraph (1)(B), passenger carriers providing essential air service under a Department of Transportation order issued under subchapter II of chapter 417 of title 49, United States Code, shall be tendered all nonpriority mail, in addition to all nonpriority bypass mail, by the Postal Service to destination cities in the State of Alaska served by the essential air service flights consistent with that order unless the Postal Service finds that an essential air service carrier's service does not meet the needs of the Postal Service.

“(B) Service provided under this paragraph, including service provided to points served in conjunction with service being subsidized under the Essential Air Service contract, may not be applied toward any of the minimum eligibility requirements of this section.”.

(5) SELECTION OF CARRIERS TO BUSH POINTS.—Section 5402 of title 39, United States Code, is amended by adding at the end the following:

“(h)(1) Except as provided under paragraph (7), on a city pair route in the State of Alaska, the Postal Service shall offer equitable tender of 70 percent of the nonpriority bypass mail on the route to all carriers providing scheduled passenger service in accordance with part 121 or part 135 that—

“(A) meet the requirements of subsection (g)(1);

“(B) provided 20 percent or more of the passenger service (as calculated in paragraph (5)) between the city pair for the 12 months preceding the date on which the 121 passenger aircraft or the 135 passenger carrier seek tender of nonpriority bypass mail; and

“(C) meet the requirements of paragraph (2).

“(2) To remain eligible for equitable tender under this subsection, the carrier or aircraft shall—

“(A) continue to provide not less than 20 percent of the passenger service on the city pair route for which the carrier is seeking the tender of such nonpriority bypass mail;

“(B)(i) for operations under part 121, operate aircraft type certificated to carry at least 19 passengers;

“(ii) for operations under part 135, operate aircraft type certificated to carry at least 5 passengers; or

“(iii) for operations under part 135 where only a water landing is available, operate aircraft type certificated to carry at least 3 passengers;

“(C) insure all available passenger seats on the city pair route on which the carrier seeks tender of such mail; and

“(D) operate flights under its published schedule.

“(3)(A) Except as provided under subparagraph (E), if a 135 passenger carrier serves a city pair route in the State of Alaska and meets the requirements of paragraph (1) or (2) when a 121 passenger carrier becomes qualified to be tendered nonpriority bypass mail on such route with a 121 passenger aircraft in accordance with paragraphs (1) and (2), the qualifying 135 passenger carriers on that route shall convert to operations with a 121 passenger aircraft within 5 years after the 121 passenger aircraft begins receiving tender on that route in order to remain eligible for equitable tender under paragraph (1). The 135 carrier shall—

“(i) begin the process of conversion not later than 2 years after the 121 passenger aircraft begins carrying nonpriority bypass mail on that route; and

“(ii) submit a part 121 compliance statement not later than 4 years after the 121 passenger aircraft begins carrying nonpriority bypass mail on that route.

“(B) Completion of conversion under subparagraph (A) shall not be required if all 121 passenger carriers discontinue the carriage of nonpriority bypass mail with 121 passenger aircraft on the city pair route.

“(C) Any qualified carrier operating in the State of Alaska under this section may request a waiver from subparagraph (A). Such a request, at the discretion of the Secretary, may be granted for good cause shown. The requesting party shall state the basis for such a waiver.

“(D) If after 6 years and 3 months following the date of enactment of the Rural Service Improvement Act of 2002, a 135 passenger carrier is providing service on a city pair route in the State of Alaska and a 121 passenger aircraft becomes eligible to receive tender of nonpriority bypass mail on the route, that 135 passenger carrier shall convert to operations under part 121 within 12 months of the 121 passenger carrier being tendered nonpriority bypass mail. The Postal Service shall not continue the tender of nonpriority bypass mail to a 135 passenger carrier that fails to convert to part 121 operations within 12 months after the 121 passenger carrier being tendered such mail under this paragraph.

“(E) Notwithstanding the requirements of this subsection, if only 1 passenger carrier or aircraft is qualified to be tendered nonpriority bypass mail as a passenger carrier or aircraft on a city pair route in the State of Alaska, the Postal Service shall tender 20 percent of the nonpriority bypass mail described under paragraph (1) to the passenger carrier or aircraft providing the next highest level of passenger service on such route.

“(4) Qualification for the tender of mail under this subsection shall not be counted toward the minimum qualifications necessary to be tendered nonpriority bypass mail on any other route.

“(5)(A)(i) In this section, the percent of passenger service shall be a percentage calculated using data collected under subsection (k).

“(ii) To ensure accurate reporting of market share the Postal Service shall compare the resulting percentage under clause (i) to the lesser of—

“(I) the amount of the passenger excise tax paid by or on behalf of a carrier, as determined by reviewing the collected amount of base fares for passengers actually flown by a carrier from the origination point to the destination point,

divided by the value of the total passenger excise taxes, as determined by reviewing the collected amount of base fares paid by or on behalf of all passenger carriers providing service from the hub point to the bush destination point; or

“(II) the amount of half of the passenger excise tax paid by or on behalf of a carrier, as determined by reviewing the collected amount of base fares for passengers actually flown by a carrier on the city pair route, divided by the value of the total passenger excise taxes, as determined by reviewing the collected amount of base fares paid by or on behalf of all passenger carriers providing service between the origination point and the destination point.

“(B) For the purposes of calculating passenger service as described under subparagraph (A), a bush passenger carrier providing inter-village bush passenger service may include the carriage of passengers carried along any point of the route between the route's origination point and the final destination point. Such calculation shall be based only on the carriage of passengers on regularly scheduled flights and only on flights being flown in a direction away from the hub point. Passenger service provided on chartered flights shall not be included in the carrier's calculation of passenger service.

“(6)(A) The Secretary shall establish new bush rates for passenger carriers operating in the State of Alaska receiving tender of nonpriority bypass mail under this subsection.

“(B) The Secretary shall establish a bush rate based on data collected under subsection (k) from 121 bush passenger carriers. Such rates shall be paid to all bush passenger carriers operating on city pair routes in the State of Alaska where a 121 bush passenger carrier is tendered nonpriority bypass mail.

“(C) The Secretary shall establish a bush rate based on data collected under subsection (k) from 135 bush passenger carriers. Such rates shall be paid to all bush passenger carriers operating on bush city pair routes in the State of Alaska where no 121 bush passenger carrier is tendered nonpriority bypass mail.

“(D) The Secretary shall establish a bush rate based on data collected under subsection (k) from bush passenger carriers operating aircraft on city pair routes where only water landings are available. Such rates shall be paid to all bush passenger carriers operating on the city pair routes in the State of Alaska where only water landings are available.

“(7) The percentage rate in paragraph (1) shall be 75 percent beginning 3 years and 3 months after the date of enactment of the Rural Service Improvement Act of 2002.

“(i)(1) Except as provided under paragraph (7), on a city pair route in the State of Alaska, the Postal Service shall offer equitable tender of 20 percent of the nonpriority bypass mail on such route to those carriers transporting 25 percent or more of the total nonmail freight (in revenue or weight as determined by the Postal Service), for the 12 months immediately preceding the date on which the freight carrier seeks tender of such mail.

“(2) To remain eligible for equitable tender under this subsection, a freight carrier shall continue to provide not less than 25 percent of the nonmail freight service on the city pair route for which the carrier is seeking tender of such mail.

“(3) If a new freight carrier enters a market, the freight carrier shall meet the minimum requirements of subsection (g)(1) and shall operate for 12 months on a city pair route in the State of Alaska before being eligible for equitable tender of nonpriority bypass mail on that route.

“(4) If no carrier qualifies for tender of nonpriority bypass mail on a city pair route in the State of Alaska under this subsection, such mail to be divided under this subsection, as described in paragraph (1), shall be tendered to the nonmail freight carrier providing the highest percentage of nonmail freight service (in terms of revenue or weight as determined by the Post-

al Service as calculated under paragraph (6)) on the city pair route. If no nonmail freight carrier is present on a city pair route in the State of Alaska to receive tender of nonpriority bypass mail under this paragraph, the nonpriority bypass mail to be divided under paragraph (1) shall be divided equitably among carriers qualified under subsection (h).

“(5) Qualification for the tender of mail under this subsection shall not be counted toward the minimum qualifications necessary to be tendered nonpriority bypass mail on any other route.

“(6)(A) In this subsection, the percent of nonmail freight shall be calculated as a percentage, using the data provided pursuant to subsection (k), by dividing the revenue or weight (as determined by the Postal Service) of nonmail freight earned by or carried by a carrier from the transport of nonmail freight from an origination point to a destination point by the total amount of revenue or weight of nonmail freight earned by or carried by all carriers from the transport of nonmail freight from the origination point to the destination point.

“(B) To ensure accurate reporting of market share the Postal Service shall compare the resulting percentage under subparagraph (A) to the lesser of—

“(i) the amount of the freight excise tax paid by or on behalf of a carrier, as determined by reviewing the collected amount of base fares for nonmail freight actually flown by a carrier from the origination point to the destination point, divided by the value of the total nonmail freight excise taxes, as determined by reviewing the collected amount of base fares paid by or on behalf of all nonmail freight carriers providing service from the origination point to the destination point; or

“(ii) the amount of half of the nonmail freight excise tax paid by or on behalf of a carrier, as determined by reviewing the collected amount of base fares for nonmail freight actually flown by a carrier on the city pair route, divided by the value of the total nonmail freight excise taxes, as determined by reviewing the collected amount of base fares paid by or on behalf of all nonmail freight carriers providing service on the city pair route.

“(7) The percentage rate in paragraph (1) shall be 25 percent beginning 3 years and 3 months after the date of enactment of the Rural Service Improvement Act of 2002.

“(j)(1) Except as provided by paragraph (3), there shall be equitable tender of 10 percent of the nonpriority bypass mail to all carriers on each city pair route in the State of Alaska meeting the requirements of subsection (g)(1) that do not otherwise qualify for tender under subsection (h) or (i).

“(2) If no carrier qualifies under this subsection with respect to a city pair route, the 10 percent of nonpriority bypass mail allocated under paragraph (1) shall be divided evenly between the pools described under subsections (h) and (i) to be equitably tendered among qualified carriers under such subsections, such that—

“(A) the amount of nonpriority bypass mail available for tender among qualified carriers under subsection (h) shall be 75 percent; and

“(B) the amount of nonpriority bypass mail available for tender among qualified carriers under subsection (i) shall be 25 percent.

“(3)(A) Except as provided by subparagraph (B), the percentage rate under paragraph (1) shall be 0 percent beginning 3 years and 3 months after the date of enactment of the Rural Service Improvement Act of 2002.

“(B) The percentage rate under paragraph (1) shall remain 10 percent for equitable tender for 6 years and 3 months after the date of enactment of the Rural Service Improvement Act of 2002 for a nonpriority bypass mail carrier on bush routes in the State of Alaska originating from the main hub of the carrier designated under subparagraph (C), if the carrier seeking the tender of such mail—

“(i) meets the requirements of subsection (g)(1);

“(ii) is not qualified under subsection (h) or (i);

“(iii) operates routes originating from the main hub of the carrier designated under subparagraph (C); and

“(iv) has invested at least \$500,000 in a physical hanger facility prior to January 1, 2002 in such a hub city.

“(C) For purposes of subparagraph (B), a carrier may designate only one hub city as its main hub and once such designation is transmitted to the Postal Service it may not be changed. Such selection and transmission must be transmitted to the Postal Service within 6 months of the date of enactment of the Rural Service Improvement Act of 2002. A carrier attempting to receive tender of nonpriority bypass mail under this subsection shall not be eligible for such tender after the carrier becomes qualified for tender of nonpriority bypass mail under subsection (h) or (i) on any route. The purchase of another carrier's hanger facility after such date of enactment shall not be considered sufficient to meet the requirement of subparagraph (B)(iv).

“(k)(1) At least once every 2 years, in conjunction with annual updates, the Secretary shall review the need for a bush mail rate investigation. The Secretary shall use show cause procedures to speedily and more accurately determine the cost of providing bush mail service. In determining such rates, the Secretary shall not take into account the cost of passenger insurance rates or premiums paid by the passenger carriers or other costs associated with passenger service.

“(2) In order to ensure sufficient, reliable, and timely traffic data to meet the requirements of this subsection, the Secretary shall require—

“(A) the monthly submission of the bush carrier's data on T-100 diskettes, or any other suitable form of data collection, as determined by the Secretary; and

“(B) the carriers to retain all books, records, and other source and summary documentation to support their reports and to preserve and maintain such documentation in a manner that readily permits the audit and examination by representatives of the Postal Service or the Secretary.

“(3) Documentation under paragraph (2) shall be retained for 7 years or until the Secretary indicates that the records may be destroyed. Copies of flight logs for aircraft sold or disposed of shall be retained.

“(4) Carriers qualified to be tendered nonpriority bypass mail shall submit to the Secretary the number and type of aircraft in the carrier's fleet, the level of passenger insurance covering its fleet, and the name of the insurance company providing such coverage.

“(5) Not later than 30 days after the last day of each calendar month, carriers qualified or attempting to be qualified to be tendered nonpriority bypass mail shall report to the Secretary the excise taxes paid by city pair to the Department of the Treasury and the weight of and revenue earned by the carriage of nonmail freight. Final compiled data shall be made available to carriers providing service in the hub.

“(l) No qualified carrier may be tendered nonpriority bypass mail under subsections (h) and (i) simultaneously on a route unless no other carrier is tendered mail under either subsection.

“(m)(1) Carriers qualifying for tender of nonpriority bypass mail under subsections (h) and (i) simultaneously shall be tendered such mail under subsection (h).

“(2) A carrier shall be tendered nonpriority bypass mail under subsection (i) if that carrier—

“(A) was qualified under both subsections (h) and (i) simultaneously; and

“(B) becomes unqualified under subsection (h) but remains qualified under subsection (i).

“(n)(1) A carrier operation resulting from a merger or acquisition between any 2 carriers operating between points in the State of Alaska shall have the passenger and nonmail freight of

all such merged or acquired carriers on the applicable route counted toward meeting the resulting carrier's minimum requirements to receive equitable tender of nonpriority bypass mail on such route for the 12-month period following the date of the merger or acquisition.

"(2) After the 12-month period described under paragraph (1), the carrier resulting from the merger or acquisition shall demonstrate that the carrier meets the minimum passenger or nonmail freight carriage requirements of this section to continue receiving tender of such mail.

"(o) In addition to any penalties applied to a carrier by the Federal Aviation Administration or the Secretary, any carrier that significantly misstates passenger or nonmail freight data required to be reported under this section on any route, in an attempt to qualify for tender of nonpriority bypass mail, shall receive—

"(1) a 1-month suspension of tender of nonpriority bypass mail on the route where the data was misstated for the first offense;

"(2) a 6-month suspension of tender of nonpriority bypass mail on the route where the data was misstated for the second offense;

"(3) a 1-year suspension of tender of all nonpriority bypass mail in the entire State of Alaska for the third offense in the State; and

"(4) a permanent suspension of tender of all nonpriority bypass mail in the entire State of Alaska for the fourth offense in the State.

"(p)(1) The Postal Service or the Secretary, in carrying out subsection (g)(2), (h), or (i), may deny equitable tender to an otherwise qualified carrier that does not operate under this section in good faith or under the intent of this section.

"(2) The Postal Service or the Secretary may waive any provision of subsection (h) or (i), if the carrier provides substantial passenger or nonmail freight service on the route in the State of Alaska where the carrier seeks tender of nonpriority mail and nonpriority bypass mail.

"(3) To ensure adequate competition among passenger carriers on a mainline route in the State of Alaska the Postal Service or the Secretary may waive the requirements of subsection (g)(1)(D), (g)(2)(E), (g)(4), or (g)(5), or any provision of subsection (h) if a 121 bush passenger carrier seeks tender of nonpriority bypass mail on a mainline route in the State of Alaska not served by a 121 mainline passenger carrier and the 121 bush passenger carrier provides substantial passenger service on the route. Waivers provided for under this paragraph shall be granted only in extreme cases of lack of competition and only to extent that are absolutely necessary to meet the minimum needs of the community. Waivers granted under this subsection shall cease to be valid once a qualified mainline passenger carrier begins providing service and seeks tender of nonpriority bypass mail in accordance with this section on the city pair route. The receipt of waivers and subsequent operation of service on a city pair route under this subsection shall not be counted towards meeting the requirements of any part of this section for any other city pair route.

"(4) In granting waivers for or denying tender to carriers under this subsection, the Postal Service or the Secretary shall consider in the following order of importance—

"(A) the passenger needs of the destination to be served (including amount and level);

"(B) the nonmail freight needs of the destination to be served;

"(C) the amount of nonpriority bypass mail service already available to the destination;

"(D) the mail needs of the destination to be served;

"(E) the savings to the Postal Service in terms of payments made to carriers;

"(F) the amount or level of passenger service already available to the destination; and

"(G) the amount of nonmail freight service already available to the destination.

"(g) The Secretary shall make a regular review of carriers receiving, or attempting to qual-

ify to receive, equitable tender of nonpriority bypass mail on a city pair route in the State of Alaska. If the Secretary suspends or revokes an operating certificate, the Secretary shall notify the Postal Service. Upon such notification, the Postal Service shall cease tender of mail to such carrier until the Secretary certifies the carrier is operating in a safe manner. Upon such receipt, the carrier shall demonstrate that it otherwise meets the minimum carriage requirements of this section before being tendered mail under this section.

"(r) The Postal Service shall have the authority to tender nonpriority bypass mail to any carrier that meets the requirements of subsection (g)(1) on any city pair route in the State of Alaska on an emergency basis. Such emergency tender shall cease when a carrier qualifies for tender on such route under the terms of this section.

"(s) Notwithstanding any other provision of law, and except for written contracts authorized under subsections (b), (c) and (d), tender by the Postal Service of any category of mail to a carrier for transportation between any two points in the State of Alaska shall not give rise to any contract between the Postal Service and a carrier, nor shall any such carrier acquire any right in continued or future tender of such mail by virtue of past or present receipt of such mail. This subsection shall apply to any case commenced before, on, or after the date of enactment of this subsection."

(d) ACTIONS OF AIR CARRIERS TO QUALIFY.—Beginning 6 months after the date of enactment of this Act, if the Secretary determines, based on the Secretary's findings and recommendations of the Postal Service, that an air carrier being tendered nonpriority bush bypass mail is not taking actions to attempt to qualify as a bush passenger or nonmail freight carrier under section 5402 of title 39, United States Code (as amended by this title), the Postal Service shall immediately cease tender of all nonpriority bypass mail to such carrier.

(e) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) TITLE 39.—Section 5402 of title 39, United States Code, is amended—

(A) in subsections (b) through (e) (as redesignated by this title) and subsection (f) by striking "Secretary of Transportation" each place it appears and inserting "Secretary"; and

(B) in subsection (f)—

(i) by striking "subsections (a), (b), and (c)" and inserting "subsections (b), (c), and (d)"; and

(ii) by striking "subsection (d)" and inserting "subsection (e)".

(2) TITLE 49.—Section 41901(a) of title 49, United States Code, is amended by striking "5402(d)" and inserting "5402(e)".

(f) REPORTS TO CONGRESS.—Not later than 18 months after the date of enactment of this Act, the Postal Service and the Secretary of Transportation shall submit a report to the Committee on Government Reform of the House of Representatives and the Committee on Governmental Affairs of the Senate on the progress of implementing this title.

(g) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided under paragraph (2), this title (including the amendments made by this title) shall take effect on the date of enactment of this Act.

(2) SELECTION OF CARRIERS.—The amendment made by subsection (c)(5) shall take effect 15 months after the date of enactment of this Act.

(h) In publishing the Act in slip form and in the United States Statutes at Large pursuant to section 112, of title 1, United States Code, the Archivist of the United States shall include after the date of approval at the end an appendix setting forth the text of the bill referred to in subsection (a).

Sec. 3003. AMENDMENTS TO THE ALASKA NATIVE CLAIMS SETTLEMENT ACT. In subsection (e)(4) of the Alaska Native Claims Settlement

Act created by section 702 of Public Law 107-117—

(1) paragraph (B) is amended by—

(A) striking "subsection (e)(2)" and inserting in lieu thereof "subsections (e)(1) or (e)(2)"; and

(B) striking "obligations under section 7 of P.L. 87-305" and inserting in lieu thereof "small or small disadvantaged business subcontracting goals under section 502 of P.L. 100-656, provided that where lower tier subcontractors exist, the entity shall designate the appropriate contractor or contractors to receive such credit"; and

(2) paragraph (C) is amended by striking "subsection (e)(2)" and inserting "subsection (e)(1) or (e)(2)".

This Act may be cited as the "2002 Supplemental Appropriations Act for Further Recovery From and Response To Terrorist Attacks on the United States".

And the Senate agree to the same.

C.W. BILL YOUNG,
RALPH REGULA,
JERRY LEWIS,
HAROLD ROGERS,
JOE SKEEN,
FRANK R. WOLF,
SONNY CALLAHAN,
JAMES T. WALSH,
CHARLES H. TAYLOR,
DAVID L. HOBSON,
ERNEST J. ISTOOK,
HENRY BONILLA,
JOE KNOLLENBERG,
DAVID R. OBEY,
JOHN P. MURTHA,
NORMAN D. DICKS,
MARTIN OLAV SABO,
STENY H. HOYER,
ALAN B. MOLLOHAN,
MARCY KAPTUR,
PETER J. VISCLOSKEY,
NITA M. LOWEY,
JOSÉ E. SERRANO,
JOHN W. OLVER,

Managers on the Part of the House.

ROBERT C. BYRD,
DANIEL K. INOUE,
ERNEST F. HOLLINGS,
PATRICK J. LEAHY,
TOM HARKIN,
BARBARA A. MIKULSKI,
HARRY REID,
HERB KOHL,
PATTY MURRAY,
BYRON L. DORGAN,
DIANNE FEINSTEIN,
RICHARD J. DURBIN,
TIM JOHNSON,
MARY L. LANDRIEU,
JACK REED,
TED STEVENS,
THAD COCHRAN,
PETE V. DOMENICI,
CHRISTOPHER S. BOND,
MITCH MCCONNELL,
CONRAD BURNS,
RICHARD C. SHELBY,
JUDD GREGG,
ROBERT F. BENNETT,
BEN NIGHTHORSE
CAMPBELL,
LARRY CRAIG,
KAY BAILEY HUTCHISON,
MIKE DEWINE,

Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4775) making supplemental appropriations for further recovery from and response to terrorist attacks on the United States for the fiscal year ending September 30, 2002, and for other purposes, submit the following

joint statements to the House and the Senate in explanation of the effects of the action agreed upon by the managers and recommended in the accompanying conference report.

Report language included by the House in the report accompanying H.R. 4775 (H. Rept. 107-480) which is not changed by the Senate in the report accompanying S. 2551 (S. Rept. 107-156), and Senate Report language which is not changed by the conference are approved by the committee of conference. The statement of the managers, while repeating some report languages emphasis, is not intended to negate the language referred to above unless expressly provided herein.

Title I—Supplemental Appropriations

CHAPTER 1

DEPARTMENT OF AGRICULTURE

OFFICE OF THE SECRETARY

The conference agreement provides an additional \$18,000,000 for the Office of the Secretary, as proposed by the Senate, with a contingent emergency designation. The House bill did not include funding for this account.

AGRICULTURAL RESEARCH SERVICE

SALARIES AND EXPENSES

The conference agreement provides an additional \$8,000,000 for the Agricultural Research Service, instead of \$16,000,000 as proposed by the Senate, with a contingent emergency designation. The funds shall be used as follows: \$2,000,000 for transmissible spongiform encephalopathy, including chronic wasting disease; \$3,000,000 for plant genome sequencing; and \$3,000,000 for cattle genome sequencing. The House bill did not include funding for this account.

BUILDINGS AND FACILITIES

The conference agreement provides an additional \$25,000,000 for the ARS Buildings and Facilities account instead of \$50,000,000 as proposed by the Senate, without an emergency designation. The House bill did not include funding for this account. The conference agreement provides funding for continued facility consolidation and modernization at Ames, Iowa.

COOPERATIVE STATE RESEARCH, EDUCATION, AND EXTENSION SERVICE

EXTENSION ACTIVITIES

The conference agreement provides an additional \$6,000,000 appropriation for the Cooperative State Research, Education, and Extension Service for one-time costs, instead of \$16,000,000 as proposed by the Senate, with a contingent emergency designation. The House bill did not include funding for this account.

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

SALARIES AND EXPENSES

The conference agreement provides an additional appropriation of \$33,000,000 for the Animal and Plant Health Inspection Service for one-time costs, instead of \$10,000,000 as proposed by the House and \$60,000,000 as proposed by the Senate, with a contingent emergency designation. The conferees direct that these funds be used as follows: \$15,000,000 for cooperative agreements with States to prevent and control transmissible spongiform encephalopathy, including chronic wasting disease and scrapie, in farmed and free-ranging animals; \$10,000,000 for emergency preparedness; \$4,000,000 for physical and operational security; and \$4,000,000 for equipment needs and smuggling interdiction.

FOOD SAFETY AND INSPECTION SERVICE

The conference agreement provides an additional \$13,000,000 for FSIS, instead of \$15,000,000 as proposed by the Senate, and

\$2,000,000 as proposed by the House, with a contingent emergency designation. The conferees direct that the funds be used for non-recurring costs associated with the import information system and enhanced international oversight activities. The conferees expect that sufficient funds, up to \$10,750,000, be directed toward the purchase of information technology system equipment and services so that FSIS can better communicate with other agencies to identify entry and assess risk of imported products.

NATURAL RESOURCES CONSERVATION SERVICE WATERSHED AND FLOOD PREVENTION OPERATIONS

The conference agreement provides an additional \$144,000,000 for Watershed and Flood Prevention Operations, of which \$50,000,000 is designated as a contingent emergency, instead of \$100,000,000, of which \$27,000,000 is designated as an emergency, as proposed by the Senate. The House bill did not include funding for this account. The conferees direct that these funds be used for recovery activities related to disasters that have been identified with priority given to those events occurring in fiscal year 2002.

RURAL DEVELOPMENT

RURAL COMMUNITY ADVANCEMENT PROGRAM

The conference agreement provides an additional \$20,000,000 for the Rural Community Advancement Program, instead of \$25,000,000 as proposed by the Senate, with a contingent emergency designation. The House bill did not include funding for this account.

RURAL UTILITIES SERVICE

LOCAL TELEVISION LOAN GUARANTEE PROGRAM ACCOUNT

(INCLUDING RESCISSION)

The conference agreement provides a rescission of \$20,000,000 for the Local Television Loan Guarantee Program as proposed by the Senate. The House bill did not include this rescission.

The conference agreement provides an additional \$8,000,000 for the Local Television Loan Guarantee Program account, instead of \$20,000,000 as proposed by the Senate, without an emergency designation. The House bill did not include funding for this account.

FOOD AND NUTRITION SERVICE

SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC)

The conference agreement provides an additional \$75,000,000 for the Women, Infants, and Children Program (WIC), to remain available until September 30, 2003, without an emergency designation. These funds are provided to finance rising participation and other increased costs. These funds are to be distributed in the manner and formula that the Secretary deems necessary to respond to caseload requirements, notwithstanding section 17(i) of the Child Nutrition Act of 1966, as amended. The conferees direct that these funds be made available to the States for identified needs as quickly as possible. Further, the conferees request a report from the Secretary within 60 days of enactment, describing the process and formula by which these funds were distributed.

FOOD STAMP PROGRAM (RESCISSION)

The conference agreement rescinds \$24,000,000, instead of \$33,000,000 as proposed by the Senate. The House bill did not include a rescission for this account.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

FOOD AND DRUG ADMINISTRATION SALARIES AND EXPENSES

The conference agreement provides \$17,000,000, to remain available until ex-

ended, for Food and Drug Administration, Salaries and Expenses, instead of \$18,000,000 as proposed by the House, with a contingent emergency designation. The Senate bill did not include funding for this account. The conference agreement provides for non-recurring costs related to safety activities in the area of medical devices and radiological health, as a consequence of the events of September 11, 2001, such as further work on safety standards for radiation scanners, development and marketing of decontamination devices and enhanced review of imported medical devices. In addition, the conferees note that the Public Health Security and Bioterrorism Preparedness and Response Act of 2002, Public Law 107-188, enacted on June 12, 2002, imposes new requirements on the FDA to protect our Nation's food and drug supplies. The conferees direct that the funds provided in this Act be additional available for non-recurring costs related to those responsibilities.

GENERAL PROVISIONS—THIS CHAPTER

House Section 101.—The conference agreement includes a limitation (Section 101) of \$33,000,000 for the Export Enhancement Program in fiscal year 2002, instead of a limitation of \$28,000,000 as proposed by the House. The Senate bill did not include this limitation.

Senate Section 101.—The conference agreement includes \$10,000,000 (Section 102) as proposed by the Senate, without an emergency designation, for agriculture assistance to producers along the Rio Grande who have suffered economic losses during the 2001 crop year due to the failure of Mexico to deliver water to the United States in accordance with water utilization treaties. The House bill contained no similar provision.

Senate Section 102.—The conference agreement includes a provision (Section 103) that the Secretary shall carry out the transfer of \$200,000,000 under section 2507(a) of the Food Security and Rural Investment Act of 2002 (P.L. 107-171) not later than 14 days after the enactment of this Act, as proposed by the Senate. The House bill contained no similar provision.

Senate Section 103.—The conference agreement does not include Sense of the Senate language regarding compensation for losses related to avian influenza. The conferees are aware of substantial losses to poultry producers in Virginia, West Virginia, and other states due to the spread of this disease; that these outbreaks are having a detrimental effect on U.S. trade; and that elimination of entire flocks, regardless of pathogen level, is necessary in many cases for disease containment. The conferees expect the Secretary to expeditiously use resources of the Commodity Credit Corporation to compensate producers for losses related to avian influenza and to promote the timely containment of this disease. The House bill contained no similar provision.

Senate Section 104.—The conference agreement does not include Sense of the Senate language regarding the use of surplus non-fat dry milk for assistance in areas suffering from HIV/AIDS. The conferees are aware that more than 1 billion pounds of non-fat dry milk are currently in Commodity Credit Corporation (CCC) inventory, for which storage costs are accruing. The conferees also note the human suffering in many nations resulting from the spread of HIV/AIDS and strongly encourage the Secretary to utilize CCC surplus commodities, including non-fat dry milk, to support programs that provide relief to those suffering from this disease, and for other humanitarian purposes. The House bill contained no similar provision.

Senate Section 105.—The conference agreement includes a provision (Section 104) that

rescinds, prior to the end of fiscal year 2002, and reappropriates funds made available under section 2108(a) of P.L. 107-20, instead of a Senate provision that rescinds these funds upon the enactment of this Act. The House bill contained no similar provision.

Senate Section 106.—The conference agreement includes a provision (Section 105) as proposed by the Senate, that allows monetized commodities to be used to carry out the purposes of section 416(b)(7)(D)(iv) of the Agricultural Act of 1949. The House bill contained no similar provision.

Senate Section 107.—The conference agreement includes a provision (Section 106) that allows the Secretary of Agriculture to use an amount not to exceed \$12,000,000 from amounts previously appropriated to the Food Safety and Inspection Service under P.L. 106-387 to liquidate over-obligation and over-expenditures of the Food Safety and Inspection Service incurred during previous fiscal years. The House bill contained no similar provision.

CHAPTER 2

DEPARTMENT OF JUSTICE

GENERAL ADMINISTRATION

SALARIES AND EXPENSES

The conference agreement includes \$6,750,000 for General Administration, of which \$1,000,000 is provided as a contingent emergency requirement. Of the total amount, \$5,750,000 is for continued implementation of IDENT/IAFIS fingerprint systems. The Justice Department is directed to continue to provide updates to the Committees on Appropriations as requested regarding the progress of this initiative. The conferees believe that the Department has provided sound oversight of this system, which will link the Federal Bureau of Investigation (FBI) and Immigration and Naturalization Service (INS) fingerprint databases. The conferees believe that this same integrated oversight should be applied to the development of the INS Entry Exit program and the "Chimera" system, which will improve data management and information technology infrastructure.

The conferees are very concerned that the cost estimates for the Entry Exit System continue to change, that the uses for which funding is requested continue to change, and that the Department of Justice and the Administration have not yet articulated to the Congress the policies that this proposed new system would support. Better planning and interagency coordination will be necessary to create an effective Entry Exit system that will alert Federal law enforcement when would-be terrorists try to gain entry to or leave the U.S. The recommendation includes \$1,000,000 for the Entry Exit System, as proposed in the House bill, to be managed by the Justice Management Division (JMD). This funding, together with \$13,300,000 provided to the INS in P.L. 107-117, shall be used by JMD to continue efforts to plan the Entry Exit System. The Department is directed to consult with the Committees on Appropriations prior to obligating these funds to ensure that this system links existing law enforcement and intelligence databases and takes advantage of existing infrastructure and programs already in operation at ports of entry, such as the Dedicated Commuter Lanes program. JMD should also seek input from the appropriate Executive Branch agencies to coordinate with other law enforcement, border security, and intelligence community information systems. Further, given the importance of and uncertain total resource requirements of this program, the Conferees will request that the General Accounting Office provide oversight and input to JMD regarding every aspect of program development, including in-

formation technology plans, infrastructure needs, and staffing.

The conference agreement also includes language that funds shall derived from the Working Capital Fund to develop a plan regarding the INS "Chimera" system for review by the Committees on Appropriations, as directed in the Senate report. This project shall also be managed by JMD. The conference agreement also adopts Senate direction regarding a briefing on lessons learned on the implementation of the Trilogy program. Centralizing the management and implementation of these systems will ensure that they will be interoperable and accessible by other relevant Federal agencies.

Serious concerns remain regarding how counterterrorism activities are coordinated within the Justice Department. In recent months, Justice has expanded the number of Joint Terrorism Task Forces, and created the National Security Coordinating Council, Regional Terrorist Task Forces, Anti-Terrorism Task Forces and the Foreign Terrorist Tracking Task Force. However, Justice has not successfully articulated how these effort enhance existing counterterrorism activities or improve coordination among Federal, State and local agencies.

The Deputy Attorney General (DAG), as the chair of the National Security Coordination Council, has been designated as the lead official coordinating the Justice Department's activities relating to combating domestic terrorism. The DAG is directed to submit to the Committees on Appropriations a strategic plan for a coordinated Justice Department effort in this regard. Further, the DAG is directed to submit a detailed Justice Department counterterrorism budget summary by program no later than 90 days after the enactment of this bill and simultaneously with the President's annual budget request thereafter. The DAG is also directed to report quarterly on actual expenditures pursuant to the plan. The budget summary and expenditure report should begin with the fourth quarter of fiscal year 2002.

The conference agreement does not include the Senate language creating Principal Associate Deputy Attorney General for Combating Terrorism.

LEGAL ACTIVITIES

SALARIES AND EXPENSES, UNITED STATES

ATTORNEYS

(RESCISSION)

The conference agreement includes a rescission of \$7,000,000 from the unobligated balances available in the "Salaries and Expenses, United States Attorneys" account provided in P.L. 107-77.

SALARIES AND EXPENSES, UNITED STATES

MARSHALS SERVICE

The conference agreement includes \$37,900,000 for the U.S. Marshals Service to address increased security requirements associated with terrorist and other high threat trials. The conferees direct the U.S. Marshals Service to submit a spending plan for these funds by August 15, 2002.

FEDERAL PRISONER DETENTION

(RESCISSION)

The conference agreement includes a rescission of \$30,000,000 from available unobligated balances in the Federal Prisoner Detention account.

ASSETS FORFEITURE FUND

(RESCISSION)

The conference agreement includes a rescission of \$5,000,000 from the Assets Forfeiture Fund Super Surplus.

FEDERAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

The conference agreement includes \$175,000,000 for the Federal Bureau of Inves-

tigation (FBI) "Salaries and Expenses" account, including \$165,000,000 as a contingent emergency requirement.

Of the total amount, \$12,500,000 is provided for additional cybercrime, counterterrorism, and counterintelligence analytical support staff. This increase will ensure that there are more support staff to analyze the large volume of information that FBI agents are collecting as part of their terrorism investigations. The conference agreement also includes \$20,000,000 for the Drug Enforcement Administration's (DEA) Special Operations Division, to be transferred expeditiously from the FBI to the DEA in accordance with the previously established MOU; \$10,000,000 for the Foreign Terrorist Tracking Task Force; and \$2,000,000 for language translation services.

The conferees remain concerned with the FBI's information technology infrastructure. A robust information technology infrastructure is essential to the FBI's ability to securely manage complex investigations; combat terrorism and cybercrime; and collect and disseminate intelligence. Therefore, the conference agreement includes funds about the request to speed implementation of information technology enhancements. Funding includes \$8,000,000 for Trilogy contractor support; \$40,121,000 for investigative data warehousing; \$18,435,000 for information assurance; \$7,500,000 for collaborative capabilities; \$7,500,000 for FBI HQ continuity of operations; \$8,000,000 for digital storage and retrieval of documents related to counterterrorism investigations; \$6,444,000 for mainframe upgrades; \$4,000,000 for data mining and visualization; and \$19,400,000 for the National Infrastructure Protection Center Special Technologies and Applications Unit. The FBI shall brief the Committees on Appropriations prior to obligation of these funds to ensure that these information technology investments are integrated with activities of the Joint Terrorism Task Forces, the Foreign Terrorist Tracking Task Force, Trilogy, and the FBI's Information Assurance Program.

The conference agreement also provides, as directed in the Senate report, \$8,000,000 for white collar crime squads and \$3,100,000 for Computer Analysis and Response Team equipment. This funding will provide the FBI with technical resources to combat corporate corruption and the growing threat of cyber crime.

In addition, the conferees direct the FBI to use \$44,713,000 expected to be carried over from funds provided in P.L. 107-117 to establish additional Legal Attaché offices and provide for information infrastructure enhancements for Legal Attaché offices. The FBI shall submit to the Committees a list of proposed new Legal Attaché offices no later than August 16, 2002. As directed in the Senate report, this list should also include a review of and sight-sizing proposal for existing offices to ensure that resources are deployed to the highest priority locations. The proposal should be coordinated with the State Department and other relevant Federal agencies, such as the National Security Council, to ensure that FBI plans and activities are consistent with other diplomatic and foreign policy overseas presence priorities.

IMMIGRATION AND NATURALIZATION SERVICE

SALARIES AND EXPENSES

ENFORCEMENT AND BORDER AFFAIRS

The conference agreement includes \$81,250,000 for the Immigration and Naturalization Service "Salaries and Expenses" account, including \$46,250,000 as a contingent emergency requirement. The conferees are concerned that INS and Department of Justice management have not provided effective oversight to ensure that the User Fee account remains solvent, and are therefore providing a one-time appropriation of \$25,000,000

to ensure that sufficient staff are hired and information technology enhancements are provided as directed in the fiscal year 2002 Appropriations Act. To support the INS homeland security mission with regard to enforcing deportation orders, \$25,000,000 is provided for the Absconder Initiative. To address chronic vehicle shortfalls, \$25,000,000 is provided for fleet management. The conferees note that the Congress provides base funding every year to the INS for both new and replacement vehicles, and the INS is expected to use these appropriations for both new and replacement vehicles instead of redirecting these resources to other areas. The conferees direct the INS to submit a spending plan prior to obligating any of the funding provided under this heading.

To improve retention of Border Patrol Agents and Immigration Inspectors, the conference agreement includes \$6,250,000 for pay upgrades for Border Patrol Agents and Immigration Inspectors for the remainder of fiscal year 2002. The conferees are concerned that the Administration has failed to address law enforcement pay equity issues in a comprehensive manner, and expects it to develop and quickly implement an equitable pay scale to ensure fair compensation for the Nation's Federal law enforcement officers.

CONSTRUCTION

The conference agreement includes \$32,100,000 as a contingent emergency requirement for the Immigration and Naturalization Service "Construction" account, to remain available until expended. The INS is directed to submit a proposed allocation to the Committees prior to obligating any of this funding.

FEDERAL PRISON SYSTEM BUILDINGS AND FACILITIES (RESCISSION)

The conference agreement includes a rescission of \$5,000,000 from the unobligated balances available in the "Federal Prison System, Buildings and Facilities" account.

OFFICE OF JUSTICE PROGRAMS JUSTICE ASSISTANCE (INCLUDING RESCISSION)

The conference agreement includes \$151,300,000 as a contingent emergency requirement for equipment, training and exercises for State and local first responders as authorized by the USA PATRIOT Act. Since fiscal year 1998, this program has provided funding and support to all types of first responders, including fire, emergency medical services, hazardous material response, and law enforcement. The following table outlines the funding provided in the conference agreement:

Equipment	\$95,000,000
Prepositioned Equipment	(20,000,000)
Electronic Dissemination of Terrorist Threat Information	(10,000,000)
Equipment Formula Grants	(65,000,000)
Security Clearances	1,300,000
Training	41,000,000
Exercises	14,000,000
Total	151,300,000

Prepositioned Equipment.—The conference agreement includes \$20,000,000 for prepositioned equipment and adopts, by reference, the Senate report language on this matter.

Electronic Dissemination of Terrorist Threat Information.—The conference agreement includes \$10,000,000 to enhance the Department's electronic dissemination of terrorism-related threat information to State and local communities as proposed in the

House bill. The conferees direct the Office of the Deputy Attorney General, in coordination with the Department's Chief Information Officer, the Federal Bureau of Investigation and the Office of Justice Programs, to report to the Committees on Appropriations by September 1, 2002, outlining the Department's efforts to ensure State and local communities are properly informed. The report shall include: (1) a spending plan for the \$10,000,000 provided by this Act; (2) a description of the funding used to operate each of the electronic systems the Department uses to communicate with State and local communities, including but not limited to RISS, LEO, NLETS, the Emergency Fire Services Information Sharing and Analysis Center, the Southwest Border Anti-Drug Information System, the National Sheriffs Association's multi-State information sharing system, and the Real-time Analytical Intelligence Database; (3) a description of how the Department's various communication systems interact to ensure information in each system is up to date and accurate; (4) a description of the Department's plans to eliminate or consolidate systems while making them all interoperable; (5) a description of the future year costs of the Department's communication systems; (6) a description of how the Department communicates with local officials that are not connected to at least one of the Department's various systems; (7) a description of the FBI's National Intel Share Project and how this project will utilize RISS, LEO and other systems; (8) a description of whether its necessary for State and local communities to develop their own information systems; and (9) a description how the Department will work with State and local governments that have developed local information sharing systems to ensure they are interoperable with the Department's information systems.

Equipment Formula Grants.—The conference agreement includes \$65,000,000 for equipment grants and adopts, by reference, language in the Senate report regarding the refinement of the Office of Domestic Preparedness' grant making process to expedite and facilitate the delivery of funds and services. The conferees also adopt, by reference, language in the Senate report regarding matching requirements.

The conferees adopt, by reference, language in the Senate report requiring the IAB to submit a report regarding equipment standards, and language in the House report regarding State and local coordination in the development and implementation of State-wide strategic plans.

Security Clearance.—The conference agreement includes \$1,300,000 for security clearances for State and local first responders as described in the Senate report.

Training.—The conference agreement includes \$41,000,000 for first responder training, including \$5,000,000 for the development of standards as described in the House report and \$36,000,000 to establish a competitive discretionary training grant program.

The conferees recognize the critical need for State and local first responders to receive training to counter weapons of mass destruction (WMD) and terrorism threats. This new competitive discretionary grant program is to be designed and implemented by the Office of Domestic Preparedness (ODP). The conferees direct ODP to develop and submit proposed guidelines for the program to the Committees on Appropriations no later than 45 days after enactment of this Act. The conferees expect that these proposed guidelines should at a minimum allow State and local agencies, non-profit organizations, and universities to be eligible for grants, including former and current ODP grant recipients. The conferees expect the grant approval

process to include a review of training curricula and materials to ensure that grantees are using the latest WMD and counterterrorism training techniques. ODP will need adequate resources to implement this new program, therefore the conferees direct that the current hiring freeze be lifted and the Office be fully staffed within available resources.

The conferees adopt, by reference, language in the Senate report regarding a report on the coordination of Federal training. The conferees expect the report to be submitted no later than January 31, 2002.

Exercise.—The conference agreement includes \$14,000,000 for exercises, including \$4,000,000 for TOPOFF II as proposed in the Senate report.

CapWIN.—The Federal government is the largest single employer in the Washington D.C. metro area and the conferees are committed to the safety of Federal employees. The conferees are concerned that in the event of another terrorist attack in the Washington, DC area the Executive Branch should have a communications system in place that will inform all of the Federal agencies in the metropolitan area of threat and public health information along with evacuation procedures.

Public Law 107-117 provided \$20,000,000 for the Capitol Wireless Integrated Network (CapWIN). This system will integrate law enforcement, fire, emergency medical, transportation, and hazmat information from Maryland, Virginia, the District of Columbia, and certain Federal agencies. This system will ensure that responders from various jurisdictions are able to communicate in the field and through the use of mobile computing will also greatly enhance the amount of information available to all types of responders both in the field and at emergency operations centers.

The conferees direct the Office of Justice Programs, in consultation with the Office of Personnel Management (OPM) and the General Services Administration, to evaluate whether CapWIN can be expanded to include Federal agencies located in the Washington, DC metro area to ensure that in the event of a terrorist attack Federal agencies are able to maintain communications with Executive Branch leaders. The conferees believe the expansion of CapWIN to Federal agencies will enhance agencies' abilities to share electronic information. The conferees understand that, once developed, CapWIN should not require a significant investment of resources for Federal agencies to access it.

The conferees direct the Department of Justice, in consultation with the OPM, to submit a report to the Committee on Appropriations, no later than December 1, 2002, on the status of expanding CapWIN to Federal agencies within the Washington, DC metro area. The report shall include an implementation plan, including funding required and procedures for use of the system in the event of a terrorist attack. The report should also include alternatives, if the expansion of CapWIN is not the appropriate solution to allow Federal agencies to communicate in a crisis situation.

The conference agreement rescinds \$600,000 from funds available to the Office of the Assistant Attorney General for Office of Justice Programs, \$1,400,000 less than the rescission proposed in the Senate bill. The conference agreement does not include the \$2,000,000 rescission proposed in the Senate bill from funds available to the Office of Congressional and Public Affairs.

CRIME VICTIMS FUND

The conference agreement adopts, by reference, language in the House report under this heading.

COMMUNITY ORIENTED POLICING SERVICES

The conference agreement includes \$50,000,000 as a contingent emergency requirement for a new Office of Community Oriented Policing Services (COPS) Interoperable Communications Technology program, to be designed and implemented by the COPS Office, in consultation with the Office of Science and Technology (OS&T) of the National Institute of Justice, and the Bureau of Justice Assistance (BJA). The conferees seek to utilize the expertise of all three organizations so as to create a grant program that is highly responsive to the immediate needs of the State and local law enforcement community and that takes full advantage of the expertise and lessons learned from OS&T and BJA research and development in the field of interoperable law enforcement communications, particularly project AGILE. In addition, the conferees are aware that the Office of Domestic Preparedness and the National Institute of Standards and Technology (NIST) have significant experience in law enforcement communications, and recommend that the COPS Office seek guidance from these agencies when designing and implementing this program.

This program should address the critical need of law enforcement to improve cross-jurisdictional communication and information sharing. The conferees direct the COPS Office to develop and submit proposed guidelines for the program to the Committees on Appropriations no later than 45 days after enactment of this Act. Consistent with the COPS Office's existing grant programs, the COPS Interoperable Communications Technology program should include a 25 percent local match requirement. The conferees are aware that the Federal Emergency Management Administration (FEMA) has a similar program designed for Fire Departments and EMS and therefore COPS should consult with FEMA to ensure that these programs are providing compatible communications equipment that will allow interoperability among all first responders in a given jurisdiction. The conferees urge that grants under these programs be used, whenever possible, to purchase cost effective cross band repeaters or other frequency or band patching solutions to allow agencies to make existing communications systems interoperable. Because of the complexities associated with these systems, the conferees provide \$3,000,000, within available amounts, to be transferred to the Bureau of Justice Assistance to provide technical assistance, utilizing OS&T's expertise, to grantees regarding the implementation of the equipment.

The conferees understand and support the need for minimum standards for law enforcement communications technology. Therefore, OS&T should assist the COPS Office in incorporating existing minimum standards into the formulation of this grant program. The conferees also provide, within available amounts, \$5,000,000 to be transferred to NIST to continue the efforts of the Office of Law Enforcement Standards (OLEs) regarding the development of a comprehensive suite of minimum standards for law enforcement communications.

The conferees direct that the current hiring freeze in the COPS Office be lifted and the Office be fully staffed within available resources to support the implementation of this new program. In addition, the conferees are aware that a number of cross band repeaters have been distributed by the Federal government to local jurisdictions throughout the United States. The conferees direct that NIJ provide an inventory no later than January 1, 2003, regarding the locations of all of these systems.

DEPARTMENT OF COMMERCE AND
RELATED AGENCIES
RELATED AGENCIESOFFICE OF THE UNITED STATES TRADE
REPRESENTATIVES

SALARIES AND EXPENSES

The conference agreement includes \$1,100,000 as a contingent emergency appropriation for increased security costs.

DEPARTMENT OF COMMERCE

BUREAU OF THE CENSUS

PERIODIC CENSUSES AND PROGRAMS
(RESCISSION)

The conference agreement includes a rescission of \$11,300,000 from amounts made available under this heading in prior fiscal years, except funds designated for the Suitland Federal Center.

NATIONAL INSTITUTE OF STANDARDS AND
TECHNOLOGYSCIENTIFIC AND TECHNICAL RESEARCH AND
SERVICES

The conference agreement includes \$37,100,000 under this heading, of which \$33,100,000 is provided as a contingent emergency requirement. Of the total amount provided, \$20,000,000 is included to further develop the overall Federal Government information technology (IT) security framework, including baseline minimum IT security benchmarks or criteria. No funding is provided to develop technology-specific requirements for the use of specific hardware or software or to develop cyber-security technologies that may compete against those developed by industry.

In addition, \$2,000,000 is included to strengthen security and surveillance at the NIST neutron reactor, \$1,000,000 is provided for the development of standards for the accuracy of biometric identification systems as authorized by Public Law 107-56 and Public Law 107-173, \$4,000,000 is provided for standards, technology and practices for buildings and emergency responders to develop and implement cost-effective safety and security for buildings, and \$10,100,000 is included for standards development for chemical/biological/nuclear/radioactive explosive threat detection equipment and biomedical recognition equipment to support homeland security activities.

NATIONAL OCEANIC AND ATMOSPHERIC
ADMINISTRATIONOPERATIONS, RESEARCH, AND FACILITIES
(INCLUDING RESCISSION)

The conference agreement includes \$4,800,000 in this account, including \$2,800,000 as a contingent emergency requirement. Of the total amount provided, \$2,800,000 is for critical satellite products and services under the National Environmental Satellite Data Information Service and \$2,000,000 is for critical mapping and charting backlog requirements redirected from New York, Virginia, and Alaska as a result of the September 11th attacks.

The conference agreement includes, by reference, language in the House report regarding tornadoes.

The conference agreement also includes a rescission of \$8,100,000 from unobligated balances remaining under this heading provided by Section 817 of Public Law 106-78.

PROCUREMENT, ACQUISITION AND CONSTRUCTION

The conference agreement includes \$7,200,000 as a contingent emergency requirement for a supercomputer backup capability for the National Weather Service.

FISHERIES FINANCE PROGRAM ACCOUNT

The conference agreement includes language relating to loan program levels under the fisheries finance program.

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

The conference agreement includes \$400,000 as an emergency requirement for increased guard and protection services, as requested.

THE JUDICIARY

SUPREME COURT OF THE UNITED STATES

CARE OF THE BUILDING AND GROUNDS

The conference agreement includes \$10,000,000 as an emergency requirement to address the Supreme Court buildings' perimeter security needs. The conferees direct the Architect of the Capitol to submit a spending plan for this funding no later than September 15, 2002. The conferees adopt, by reference, language in the House report regarding the coordination of the Court's security efforts with other security enhancements being implemented in the U.S. Capitol complex.

UNITED STATES COURT OF APPEALS FOR THE
FEDERAL CIRCUIT

SALARIES AND EXPENSES

The conference agreement adopts, by reference, language in the House report under this heading. The required report should be submitted no later than September 1, 2002.

COURTS OF APPEALS, DISTRICT COURTS, AND
OTHER JUDICIAL SERVICES

SALARIES AND EXPENSES

The conference agreement includes \$7,115,000, including \$3,972,000 as a contingent emergency requirement, for the increased costs associated with terrorist-related trials. Of the total amount provided, \$5,200,000 is for perimeter security enhancements such as protective window film, for courts with upcoming terrorist trials, as described in the House and Senate reports. In addition, \$1,915,000 is provided to fund the costs associated with closed circuit transmission of the Moussaoui trial to victims of the September 11th attacks. The conferees adopt, by reference, language in the Senate report regarding a report on the court security radio conversation program.

Courtroom Technologies.—The conferees support the Federal Judiciary and Department of Justice courtroom technologies programs. The Federal Judiciary's courtroom technology program includes the installation of video evidence presentation systems, video conferencing systems, and electronic methods of taking the record in new and existing Federal courtrooms, as well as the procurement of portable suites of computers and audio/visual equipment for use in courtrooms without permanent equipment. The conferees understand that these technologies can reduce trial time, lower litigation costs and enhance the understanding of information.

The conferees also understand that Department of Justice attorneys have developed a similar low cost, portable suite of computers and audio/visual equipment for the courtroom that enhances the presentation of information to juries on complex issues such as how a cyber attack is launched.

The conferees direct the Administrative Office of the U.S. Courts and the Executive Office of United States Attorneys (EOUSA) to provide a report to the Committees on their plans to expand the use of courtroom technologies in Federal courtrooms. The report should describe the courts' plans to expand installation of courtroom technologies in new and existing courtrooms and to use of portable courtroom technologies. The report should compare the costs and benefits of each program. The report should also describe how the Federal Judiciary and the EOUSA are coordinating their programs to ensure that duplicative equipment is not purchased. The conferees expect the report

to be submitted no later than September 1, 2002.

DEPARTMENT OF STATE AND RELATED AGENCY

DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

DIPLOMATIC AND CONSULAR PROGRAMS

The conference agreement includes \$47,450,000 in this account as an emergency appropriation. This amount includes \$20,300,000 for costs of opening and securing diplomatic posts in Kabul, Afghanistan, and Dushanbe, Tajikistan. The conferees direct the Department to submit bimonthly reports on the planned and actual obligation and expenditure of this funding through completion of the projects.

The conference agreement also includes \$1,000,000 for domestic preparedness needs, \$1,000,000 for chemical/biological emergency supplies, \$1,600,000 for increased domestic guard requirements, \$550,000 for immunization requirements, and \$11,000,000 for mail and pouch processing requirements. The conferees note that \$10,000,000 was provided for security upgrades of mail and pouch facilities in Public Law 107-38. Should additional funding beyond the total of \$21,000,000 be required for this purpose, the conferees expect the Department to submit a reprogramming from funding provided for other purposes.

The conference agreement also includes in this chapter a public diplomacy initiative to engage foreign Arab and Muslim publics totaling \$40,100,000, including \$10,000,000 under this account. The conference agreement includes, by reference, language in the Senate report regarding the American Corners initiative. Funding is included under this account, as follows, for public diplomacy programs and activities:

Broadcast Rights	\$1,150,000
Crimes Against Humanity	
Programs	1,000,000
Regional Office—Cairo	1,500,000
Iran-Iraq Programs	1,000,000
Translations	150,000
Democratization	1,050,000
English Teaching Support	2,550,000
Educational Reform (Gulf & S Asia)	500,000
American Studies (NEA region)	600,000
Educational Reform Small Grants	500,000
Total	10,000,000

EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS

The conference agreement includes \$15,000,000, including \$5,000,000 as a contingent emergency requirement, for a public diplomacy exchange initiative for foreign Arab and Muslim publics. This initiative includes funding, as follows, for educational and cultural exchange themes and programs to increase mutual understanding with Arab and Muslim audiences worldwide:

Values/Religious Tolerance	\$2,100,000
English Language Programs	4,000,000
American Studies	1,000,000
Youth Exchanges	1,000,000
Media Training Exchanges	500,000
US/Afghan Women's Council	2,400,000
Fulbright Exchanges	4,000,000
Total	15,000,000

The conferees agree that Fulbright Exchanges funded in this Act will focus on the themes of values/religious tolerance, American studies, media training and US/Afghan women's issues. The conference agreement also includes, by reference, language in the

House report regarding the allocation of this funding for countries not already covered under the Freedom Support Act.

EMBASSY SECURITY, CONSTRUCTION, AND MAINTENANCE

The conference agreement includes \$210,516,000, including \$10,000,000 as a contingent emergency requirement. This includes \$130,516,000 for the construction and renovation of diplomatic facilities in Kabul, Afghanistan, and \$80,000,000 for Dushanbe, Tajikistan. The amount provided above the request reflects adjusted Department estimates for the Kabul project, as described in the Senate report. The conferees direct the Department to submit bimonthly reports on the planned and actual obligation and expenditure of this funding through completion of the projects. In addition the conferees direct that the bimonthly reports on the Kabul, Afghanistan, facility contain detailed information, including cost estimates, on compound security.

The conferees also direct the Department to submit a report on, and justification of, proposed staffing levels at both posts before the obligation of funds, as described in the House report. The conferees intend that the amount provided for facilities in Kabul will support the collocation of all agencies at post on a secure compound.

EMERGENCIES IN THE DIPLOMATIC AND CONSULAR SERVICE

The conference agreement does not include additional funding requested under this account. The conferees direct the Department to use available funding in this account for the purposes described in the request.

INTERNATIONAL ORGANIZATIONS AND CONFERENCES

CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

The conference agreement includes \$7,000,000 as an emergency requirement for anticipated United Nations assessments to support a United Nations mission in Afghanistan.

CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

The conference agreement includes \$23,034,000 as an emergency requirement for increased assessments for the United Nations peacekeeping mission in the Democratic Republic of the Congo (MONUC). The conference agreement provides for estimated additional fiscal year 2002 assessments based on the current force level and does not assume any increase or decrease to that level, nor any change in the mandate of the mission. Should actual assessments for MONUC exceed the increased funding level, the Department may propose to reprogram funds from allocations for other missions.

RELATED AGENCY

BROADCASTING BOARD OF GOVERNORS

INTERNATIONAL BROADCASTING OPERATIONS

The conference agreement includes \$7,400,000 as an emergency requirement for operational costs to continue surrogate radio broadcasting by Radio Free Europe/Radio Liberty to the people of Afghanistan in languages spoken in Afghanistan. The Broadcasting Board of Governors (BBG) shall provide the Committees on Appropriations quarterly status reports on ongoing broadcasting initiatives in the Middle East, Afghanistan and Africa, with the first such report due no later than October 15, 2002. In addition, the conferees expect the BBG to carry VOA Farsi and Radio Free Europe/Radio Liberty's Radio Free Iraq broadcasts on the medium-wave transmitter located in Kuwait until such time as alternative AM transmission capabilities with equivalent power and reach

are in place. The conferees note that the BBG, to date, has not submitted such an alternative proposal to the Committees on Appropriations.

BROADCASTING CAPITAL IMPROVEMENTS

The conference agreement includes \$7,700,000 for the "Broadcasting Capital Improvements" account, for capital requirements associated with installation of a medium wave transmission facility to support the Arabic broadcasting initiative, as described in the House report.

RELATED AGENCIES

DEPARTMENT OF TRANSPORTATION

MARITIME ADMINISTRATION

MARITIME GUARANTEED LOAN (TITLE XI)

PROGRAM ACCOUNT

(RESCISSION)

The conference agreement includes a rescission of \$5,000,000 from unobligated balances under this heading.

SECURITIES AND EXCHANGE COMMISSION

SALARIES AND EXPENSES

The conference agreement includes \$40,200,000 for the Securities and Exchange Commission, including \$9,300,000 as a contingent emergency requirement. The total amount is \$20,200,000 above the request, and \$10,900,000 above the level provided in the House and Senate bills.

The conferees are concerned that the Administration has not requested sufficient resources for the Commission to adequately protect investors from corporate abuses. In order to address this concern, the conferees have provided more than double the Administration's request. The conference agreement includes \$25,000,000 for 125 additional staff including associated pay parity costs, and \$5,900,000 to allow the Commission to begin to address critical information technology needs such as an integrated document management system, automated analytical tools, and E-Filing. In addition, \$9,300,000 is provided for recovery costs for the New York Regional Office where office space was destroyed in the September 11th attacks.

GENERAL PROVISIONS

Sec. 201.—The conference agreement includes modified language waiving a provision of existing law requiring authorizations to be in place for the State Department prior to the expenditure of any appropriated funds.

Sec. 202.—The conference agreement includes language amending existing law regarding the collection of immigration inspection fees.

Sec. 203.—The conference agreement includes language authorizing the closed circuit televising of the Moussaoui trial for victims of the September 11, 2001, attacks.

Sec. 204.—The conference agreement includes language requiring that funds provided in fiscal year 2002 for a certain grant program be used before the end of the current fiscal year.

Sec. 205.—The conference agreement includes language prohibiting the use of funds in this or any other act to carry out a certain memorandum of agreement between the Federal Trade Commission and the Department of Justice. The conference agreement adopts by reference the semi-annual reporting requirement included in the Senate report.

Sec. 206.—The conference agreement includes modified language extending the statutory deadline for submission of the final report and recommendations of the Ocean Policy Commission.

Sec. 207.—The conference agreement includes language authorizing the International Joint Commission to receive funds from the U.S. Army Corps of Engineers for purposes related to a certain project.

Sec. 208.—The conference agreement includes language clarifying the definition of wild fish in the Agricultural Marketing Act of 1946, as amended.

Sec. 209.—The conference agreement includes language clarifying Congressional intent regarding a cooperative agreement.

Sec. 210.—The conference agreement includes language providing economic assistance to certain fishermen and fishing communities. The conference agreement includes, by reference, language in the Senate report regarding the allocation, by State, of this funding.

Sec. 211.—The conference agreement includes modified language and funding for a

cooperative research program and a capacity reduction loan program for the New England groundfish fishery.

Sec. 212.—The conference agreement includes modified language designating previously appropriated funding for the costs of a capacity reduction loan program for the West Coast fishery.

Sec. 213.—The conference agreement includes language amending Public Law 107–77 under the heading “National Veterans Business Development Corporation” to make fiscal year 2002 appropriations available until expended.

CHAPTER 3

DEPARTMENT OF DEFENSE—MILITARY

Chapter 3 of the conference agreement recommends \$14,352,900,000 for the Department of Defense, instead of \$15,769,462,000 as proposed by the House and \$14,022,000,000 as proposed by the Senate to support the global war on terrorism. This amount includes \$14,966,000,000 in new budget authority, and \$613,100,000 in offsets (rescissions) from existing appropriations.

The following table provides details of the emergency supplemental appropriations in this chapter.

	Budget request	House	Senate	Conference
Military Personnel:				
Military Personnel, Air Force	206,000	206,000	206,000	206,000
Operation and Maintenance:				
O&M, Army	107,000	226,000	107,000	209,000
O&M, Navy	36,500	53,750	36,500	48,750
O&M, Air Force	41,000	60,500	41,000	65,510
O&M, Defense-Wide	739,000	751,975	739,000	721,975
Defense Emergency Response Fund	11,300,000	12,693,972	11,300,000	11,901,900
Total, O&M	12,223,500	13,786,197	12,223,500	12,947,135
Procurement:				
Other Procurement, Army	79,200	79,200	79,200	79,200
Aircraft Procurement, Navy	22,800	22,800	22,800	22,800
Proc of Ammunition, Navy and MC	262,000	262,000	262,000	262,000
Other Procurement, Navy	2,500	2,500	2,500	2,500
Procurement, Marine Corps	3,500	3,500	3,500	3,500
Aircraft Procurement, Air Force	93,000	129,500	93,000	118,000
Procurement of Ammunition, Air Force	115,000	115,000	115,000	115,000
Other Procurement, Air Force	752,300	735,340	752,300	747,840
Procurement, Defense-Wide	99,500	104,425	99,500	104,425
Total, Procurement	1,429,800	1,454,265	1,429,800	1,455,265
Research, Development, Test and Evaluation:				
RDTE, Army	8,200	8,200	8,200	8,200
RDTE, Navy	19,000	9,000	19,000	9,000
RDTE, Air Force	60,800	99,800	60,800	198,400
RDTE, Defense-Wide	74,700	72,000	74,700	67,000
Total, RDTE	162,700	189,000	162,700	282,600
General Provisions:				
MH–47	—	93,000	—	—
Chemical Demilitarization	—	100,000	—	75,000
Rescissions	—	–59,000	—	–613,100
Total General Provisions	—	134,000	—	–538,100
Grand Total	14,022,000	15,769,462	14,022,000	14,352,900

MILITARY PERSONNEL

The conference agreement recommends \$206,000,000 as proposed by the House and the

Senate for functions funded in title I, Military Personnel, of the Department of Defense Appropriations Act, as follows:

	Request	House	Senate	Conference
Military Personnel, Air Force Personnel Readiness	206,000	206,000	206,000	206,000

OPERATION AND MAINTENANCE

The conference agreement recommends \$1,045,235,000 for functions funded in title II,

Operation and Maintenance, of the Department of Defense Appropriations Act, instead of \$1,092,225,000 as proposed by the House, and

\$923,500,000 as proposed by the Senate, as follows:

	Request	House	Senate	Conference
Operation and Maintenance, Army:				
C3I Classified	101,800	103,800	101,800	103,800
C3I Site R	5,200	5,200	5,200	5,200
Operations in Bosnia and Southwest Asia	0	117,000	0	100,000
Operation and Maintenance, Navy:				
C3I Classified	36,500	53,750	36,500	48,750
Operation and Maintenance, Air Force:				
C3I Classified	32,000	51,500	32,000	56,510
Weapons and Munitions—UAV	9,000	9,000	9,000	9,000
Operation and Maintenance, Defense-Wide:				
C3I Classified	283,600	296,575	283,600	296,575
C3I Homeland Security IT	32,000	32,000	32,000	32,000
C3I White House Communications	3,400	3,400	3,400	3,400
Coalition Support	420,000	420,000	420,000	390,000

OPERATION AND MAINTENANCE, DEFENSE-WIDE

The conference agreement provides \$390,000,000 for reimbursements to Pakistan, Jordan, and other key cooperating countries

for the cost of goods, services, or use of facilities provided in direct support of United States military forces in connection with the global war on terrorism. The conferees ex-

pect the Secretary of Defense to establish financial management guidelines and documentation requirements providing assurance

that these reimbursements are fully justified. The conferees expect that the first "15-day" written notification submitted to the congressional committees will include a detailed description of the financial management guidelines and documentation requirements established by the Secretary under the authority provided, and an explanation as to the adequacy of this documentation in ensuring that taxpayer interests are adequately protected.

DEFENSE EMERGENCY RESPONSE FUND

The conference agreement recommends \$11,901,900,000 for the incremental costs of military operations and mobilization to conduct the global war on terrorism, instead of \$12,693,972,000 as proposed by the House, and \$11,300,000,000 as proposed by the Senate, as follows:

[In thousands of dollars]

	Conference Amount	
Military Personnel, Army:		
Active and Reserve Pays and Allowances	1,389,700	Classified
Mobilization Costs	245,000	Overseas Humanitarian, Disaster and Civic Aid: Demining and Unexploded Ordnance Activities
Military Personnel, Navy:		10,000
Active and Reserve Pays and Allowances	414,200	Procurement of Weapons and Tracked Combat Vehicles, Army:
Mobilization Costs	285,000	Sniper Rifles, Modified Magazines
Military Personnel, Marine Corps:		4,000
Active and Reserve Pays and Allowances	206,800	Procurement of Ammunition, Army:
Mobilization Costs	2,000	Small Caliber Ammunition
Military Personnel, Air Force:		62,800
Active and Reserve Pays and Allowances	1,848,500	Other Procurement, Army: Site R Short Range Air Defense
Mobilization Costs	268,000	33,200
Operation and Maintenance, Army:	705,000	Mine Clearing Equipment
Personnel Support Operations Costs	348,600	9,000
Airlift and Sealift	1,034,400	Aircraft Procurement, Navy:
Operation and Maintenance, Navy:		
Flying Hours	140,000	J-52 Engines
Ship Operations	225,000	EA-6B Center and Outer Wing Repairs
Ship Maintenance	412,000	60,000
U.S.S. Scranton DMP	90,000	27,000
Aircraft Maintenance	137,000	Spares
Combat Support Forces ..	150,000	Shipbuilding and Conversion, Navy:
Operational Support Costs	367,000	Incremental Cost of Maintenance Availability
Operation and Maintenance, Marine Corps:		59,000
Combat Support Force Operations	51,000	Other Procurement, Navy: Site R Costs, Spare Parts, and Guantanamo Bay Operations ..
Operation and Maintenance, Air Force:		36,000
Operations and Personnel Support	1,323,200	Procurement of Ammunition, Air Force:
Transportation and Airlift Costs	626,800	Sensor Fuzed Weapon
Operation and Maintenance, Defense-Wide:		8,000
SOCOM and Homeland Defense	1,010,900	Other Procurement, Air Force:
Veterans' Task Force	0	
		NORAD Radio and Communications Upgrades
		4,000
		Research, Development, Test and Evaluation, Air Force:
		Global Hawk Deployment
		36,000
		Defense Health Program: Guard and Reserve Medical Costs
		143,800

The conferees have agreed to provide \$672,000,000 over the amounts requested by the President in order to address existing shortfalls in military personnel funding, including those associated with the mobilization of Guard and Reserve personnel and other personnel-related costs including "stop-loss". In addition, based on more current execution data, the conference agreement adjusts the budget request by realigning an additional \$128,000,000 to personnel requirements from operational costs, bringing the total provided for additional military personnel expenses to \$800,000,000.

The conference agreement reallocates \$201,000,000 from funds requested for SOCOM logistical support to the military services that the providing the support. The recommendation also realigns \$100,000,000 from the Defense Health Program to other re-

Conference
Amount
120,000

quirements based on the Department's reporting of lower than expected expenditures for medical services provided to reservists called to active duty.

The conferees agree with funding directives in House of Representatives Report 107-480 with respect to body armor; Naval Air Station, North Island historical facility renovation; NAIC Threat Representation and Validation project; and Predator B flying hours. Further, the conferees agree with the quarterly reporting requirements for Defense Emergency Response Fund (DERF) obligations as directed by the House, and with the Senate's directive that the Department of Defense notify the Committees on Appropriations prior to transferring DERF funds to appropriations accounts or for purposes or amounts other than those specified in the table above.

REALIGNMENT OF DERF FUNDS FOR FISCAL YEAR 2002 FUNDING SHORTFALLS

The Department of Defense has identified \$500,000,000 previously made available to the Defense Emergency Response Fund (in Public Laws 107-38 and 107-117) that are not being obligated by the military services as quickly as originally anticipated. The categories to which these funds had been allocated are as follows:

[In thousands of dollars]

Increased situational awareness	153,823
Enhanced force protection	161,150
Increased worldwide posture	49,407
Initial crisis response	125,620
Airport and border security	10,000

Given that funds previously made available to the DERF were for near term, extraordinary costs of the war on terrorism that would be obligated and expended quickly, it is clear that these funds are for relatively lower priority activities. In order to help offset the additional funding for military personnel and other time-sensitive, mobilization-related costs provided in the conference agreement, the conferees recommend a general provision (section 312) rescinding \$224,000,000 of these funds. As for funds which remain from those cited above, the conferees direct that they be realigned to address additional fiscal year 2002 military personnel and other high priority operational and readiness funding requirements that will not be fully covered by the funding in this measure. The conference agreement includes authority for the Secretary of Defense to make such transfers, 15 days after notification to the congressional defense committees.

PROCUREMENT

The conference agreement recommends \$1,455,265,000 for functions funded in title III, Procurement, of the Department of Defense Appropriations Act, instead of \$1,454,265,000 as proposed by the House, and \$1,429,800,000 as proposed by the Senate, as follows:

[In thousands of dollars]

Program	Request	House	Senate	Conference
Other procurement, Army:				
C31 Classified	10,400	10,400	10,400	10,400
C31 Site R	68,800	68,800	68,800	68,800
Aircraft Procurement, Navy:				
C31 Classified	8,000	8,000	8,000	8,000
C31 White House Communications	14,800	14,800	14,800	14,800
Procurement of Ammunition, Navy and Marine Corps:				
Weapons and Munitions—JDAM	262,000	262,000	262,000	262,000
Other Procurement, Navy:				
C31 Classified	2,500	2,500	2,500	2,500
Procurement, Marine Corps:				
C31 Classified	3,500	3,500	3,500	3,500
Aircraft Procurement, Air Force:				
Weapons and Munitions—UAV	93,000	0	0	0
Global Hawk Replacement Vehicle	0	35,000	35,000	35,000
Backfill for Cameras P1 and P2	0	13,000	0	13,000
Sensor Packages/High Band Subsystem Dev	0	0	13,000	0

[In thousands of dollars]

Program	Request	House	Senate	Conference
Predator Accelerated Production	0	45,000	37,000	37,000
Predator Ground Station Retrofit	0	0	8,000	8,000
F-15 VHF Radios	0	36,500	0	25,000
Procurement of Ammunition, Air Force:				
Weapons and Munitions—JDAM	115,000	115,000	115,000	115,000
Other Procurement, Air Force:				
C3I Classified	752,300	735,340	752,300	747,840
Procurement, Defense-Wide:				
C3I Classified	46,900	51,825	46,900	51,825
C3I White House Communications	14,800	14,800	14,800	14,800
Weapons and Munitions—Helicopter Weapons	3,500	3,500	0	3,500
Weapons and Munitions—APQ Radar Overheat Mitigation	3,300	3,300	3,300	3,300
Weapons and Munitions—MH-60 Enhancement	8,600	8,600	0	8,600
Weapons and Munitions—Cas Suite	2,200	2,200	0	2,200
SOF Small Arms and Weapons	0	0	2,200	0
Rotary Wing Upgrades	0	0	12,100	0
SOCOM Standard Ammo/Non-Standard Ammo/SOAR	20,200	20,200	20,200	20,200

RESEARCH, DEVELOPMENT, TEST AND
EVALUATION

The conference agreement recommends \$282,600,000 for functions funded in title IV,

Research, Development, Test and Evaluation, of the Department of Defense Appropriations Act, instead of \$189,000,000 as pro-

posed by the House, and \$162,700,000 as proposed by the Senate, as follows:

[In thousands of dollars]

Program	Request	House	Senate	Conference
Research, Development, Test and Evaluation, Army:				
Weapons and Munitions—Hemostatic Dressing	8,200	8,200	8,200	8,200
Research, Development, Test and Evaluation, Navy:				
C3I Classified	10,000	0	10,000	0
C3I White House Communications	9,000	9,000	9,000	9,000
Research, Development, Test and Evaluation, Air Force:				
C3I Classified	37,800	99,800	37,800	175,400
Weapons and Munitions—UAV	23,000	0	23,000	23,000
Research, Development, Test and Evaluation, Defense-Wide:				
C3I Classified	74,700	52,000	74,700	52,000
Remote CB Agent Vapor Detection System	0	20,000	0	15,000

CRUSADER NEXT GENERATION ARTILLERY
SYSTEM

The conferees strongly oppose the process employed by the Defense Department in proposing to terminate the Crusader artillery system. The usual practice for making a policy decision of this type would be for the Executive Branch to propose it in the initial President's budget submission to allow Congress sufficient time to hold hearings and fully scrutinize its merits. This process was not followed in the case of the Crusader. Instead, after requesting \$475,609,000 in the fiscal year 2003 President's Budget, a budget amendment was submitted on May 29, 2002 to immediately terminate the Crusader program. This proposal gave the Congress virtually no time to properly examine the merits of the Administration's proposal.

The conferees recognize that the proposed termination of the Crusader system may present a higher degree of risk for Army soldiers, given that the precision munitions and rocket systems proposed as alternatives to the Crusader's capabilities are unproven from technical, cost, and tactical perspectives. However, the conferees have concluded that since the Army has reported to the Congress on its plans to exclude the Crusader from its Objective Force, and since the Army has chosen to accelerate the fielding of the Future Combat System to the 2008 timeframe, the justification for the Crusader has diminished significantly.

The Army's deficiency in heavy artillery capability cannot continue to be deferred irrespective of the development of precision guided munitions. The gap left by the termination of the Crusader artillery system must be filled.

The conferees believe it is imperative that the Army accelerate its plan to develop a next generation artillery cannon for the Objective Force to take full advantage of the \$2 billion investment in state-of-the-art artillery technology developed under the Crusader program. The conferees direct the Army to enter into a follow-on contract immediately to leverage Crusader technology to the maximum degree possible in order to develop and field a next generation Non-Line

of Sight (NLOS) Cannon artillery system in the 2008 timeframe.

Finally, the conferees direct the Army to carefully review its requirements for this Objective Force NLOS Cannon artillery system to ensure that the desire for high mobility and speed of deployment is properly balanced against future needs of lethality and combat overmatch.

UNDERSEA WARFARE SUPPORT EQUIPMENT

The conferees direct that of the funds provided in the fiscal year 2002 Defense Appropriations Act under "Research, Development, Test and Evaluation, Navy" for Fleet Telecommunications (tactical), \$2,000,000 shall be reallocated as follows: \$1,000,000 shall be transferred to "Other Procurement, Navy" Undersea Warfare Support Equipment only to procure new improvements to the AN/SLQ 25A system and \$1,000,000 shall be reprogrammed within "Research, Development, Test and Evaluation, Navy" to Surface Ship Torpedo Defense, to implement the following revised funding profile for the Tripwire Torpedo Defense program: \$7,350,000 for onboard sensors and signal processing, \$400,000 for distributed engineering center, \$2,500,000 for anti-torpedo torpedo, \$1,650,000 for associated components, and \$1,500,000 for winch redesign and integration.

REMOTE CHEMICAL AND BIOLOGICAL AGENT
VAPOR DETECTION SYSTEM

The conferees agree with the House language concerning the remote chemical and biological agent vapor detection system and recommend \$15,000,000 for this purpose.

CLASSIFIED PROGRAMS

The recommendations of the conferees regarding classified programs are summarized in a classified annex accompanying this statement.

GENERAL PROVISIONS—THIS CHAPTER

The conferees agree to retain section 301, as proposed by the House and Senate, which permits funds in "Research, Development, Test and Evaluation, Navy" be used for the Special Operations Forces requirements related to the V-22 aircraft.

The conferees agree to delete language proposed by the House concerning obligation of

funds in the Defense Cooperation Account to be transferred to other appropriations accounts.

The conferees agree to retain section 302, as proposed by the Senate, and delete language as proposed by the House, which allows the Defense Department to continue to provide assistance to Russia and the Former Soviet Union states provided the President certifies that it is important to the national security interests of the United States.

The conferees agree to delete language as proposed by the Senate which authorizes the use of funds for military construction projects.

The conferees agree to delete language as proposed by the Senate which permits the Secretary of Defense to waive current restrictions on the establishment of a field operating agency.

The conferees agree to retain section 303, as proposed by the House and Senate concerning funds for intelligence related programs.

The conferees agree to delete language as proposed by the House which changes the deadline for submitting a request for multiple reprogrammings to the Congress.

The conferees agree to retain section 304, as proposed by the House and Senate which makes funds available for the payment of certain expenses for international inspectors.

The conferees agree to retain and amend section 305, as proposed by the House which allows broader authority to the Department of Defense for assistance to Colombia.

The conferees agree to delete language as proposed by the House providing \$93,000,000 to acquire three MH-47 helicopters for the Special Operations Command. The conferees do not agree to include this provision because the specific airframes that were to be procured through this effort are no longer available. However, the conferees concur with the direction provided in House Report 107-480 requiring the Secretary of Defense to provide a report to the defense committees not later than 30 days after enactment of this act outlining the Department's plans to acquire additional MH-47 helicopters to meet

urgent mission requirements of the Special Operations Command.

The conferees agree to retain and amend section 306, as proposed by the House which provides \$75,000,000 for the purpose of accelerating chemical agent destruction at Department of Defense facilities in Aberdeen, Maryland; Newport, Indiana; and Pine Bluff, Arkansas.

The Conferees agree to retain and amend section 307, as proposed by the House to rescind \$163,100,000 instead of \$59,000,000. The specific programs and the amounts rescinded are as follows:

<i>(Rescissions)</i>	
2001 Appropriations:	
Other Procurement, Air Force	\$12,500,000
2002 Appropriations:	
Missile Procurement, Air Force	11,600,000
Other Procurement, Air Force	52,500,000
Procurement, Defense-Wide	30,000,000
Research, Development, Test and Evaluation, Air Force	56,600,000

The conferees agree to retain and amend section 308, as proposed by the House which states that section 2533a of title 10 does not apply to transactions entered into under section 8159 of Public Law 107-117.

The conferees agree to delete language as proposed by the House which provides authority for the Secretary of Defense to use funds available in the "Defense Emergency Response Fund" to reimburse cooperating nations for logistical and military support provided to the United States military in connection with the war on terrorism.

The conferees agree to retain section 309, as proposed by the Senate which provides direction on the execution of \$2,000,000 provided for procurement of smokeless nitrocellulose.

The conferees agree to retain section 310, as proposed by the Senate supporting the conversion of the Naval Security Group, Winter Harbor, Maine.

The conferees agree to retain section 311, as proposed by the Senate which directs that \$2,200,000 in "Operation and Maintenance, Army National Guard" be used for information operations, information assurance operations and related training.

The conferees agree to include a new general provision, section 312, which rescinds \$224,000,000 from funds previously made available in the Defense Emergency Response Fund.

The conferees agree to include a new general provision, section 313, which rescinds \$226,000,000 from fiscal year 2002 defense appropriations resulting from revised economic assumptions regarding inflation.

CHAPTER 4

DISTRICT OF COLUMBIA

FEDERAL FUNDS

The conferees recognize that security in the nation's capital is the combination of efforts by local and Federal government agencies and regional authorities, providing transportation, public works, and other services. A high degree of coordination among these entities is required to enhance and maintain security. In addition, the investments made in this region to address critical infrastructure must also be coordinated. The conferees encourage the Administration to assess the needs of the national capital region, set funding priorities, and make recommendations through the President's fiscal year 2004 budget, and, if necessary, through any supplemental budget requests.

FEDERAL PAYMENT TO THE CHILDREN'S NATIONAL MEDICAL CENTER

The conferees provide a Federal payment of \$10,000,000 to the Children's National Medical Center instead of \$13,770,000 as proposed by the Senate. The House bill contained no similar provision. Included in this amount is \$8,000,000 for the expansion of quarantine facilities and \$2,000,000 for the construction of a decontamination facility for children and families.

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA

The conferees provide a Federal payment of \$23,000,000 to the District of Columbia to implement the District Emergency Operations Plan instead of \$24,730,000 as proposed by the Senate. The House bill contained no similar provision. Included in this amount is \$12,000,000 to reimburse the District for overtime expenses related to providing security at events associated with Federal government activities. Also included in this amount is \$5,000,000 for the Unified Communications Center and \$6,000,000 for construction of containment facilities and other activities to support the regional Bioterrorism Hospital Preparedness Program at the Washington Hospital Center.

FEDERAL PAYMENT TO THE WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY

The conferees provide a Federal payment of \$8,000,000 to the Washington Metropolitan Area Transit Authority instead of \$25,000,000 as proposed by the Senate. The House bill contained no similar provision. This funding is to contribute to the creation of a regional transportation back-up operations control center. Funding of this center is primarily a regional responsibility; therefore the conferees direct the General Manager of the Washington Metropolitan Area Transit Authority to submit by February 5, 2003 a plan for how this project will be financed. If it is determined that sufficient local funds cannot be dedicated to this project, the General Manager shall submit a plan that details how the agency proposes to expend the funds provided in this Act. The conferees do not intend to provide additional Federal funding for this project.

The conferees note that a number of the largest mass transit systems around the country have modified their vending systems to both accept and dispense the Sacajawea "Golden Dollar" coins. This is a coin which was created by an Act of Congress and which depicts an important Native American woman from American history. Regrettably, many mass transit systems around the country, including in the Nation's Capital, have declined to modify their vending systems to make use of the coin. These transit systems have thus far missed a chance to educate the millions of Americans who annually use transit systems about both the Golden Dollar coin as well as this important American. As we approach the bicentennial celebration of Lewis and Clark's "Corps of Discovery," the conferees direct the Washington Metropolitan Area Transit Authority to report the Committees on Appropriations of the House of Representatives and Senate by February 1, 2003 on its efforts to make its vending machines "Golden Dollar" capable.

FEDERAL PAYMENT TO THE METROPOLITAN WASHINGTON COUNCIL OF GOVERNMENTS

The conferees provide a Federal payment of \$1,750,000 to the Metropolitan Washington Council of Governments as proposed by the Senate. The House bill contained no similar provision. This funding is to acquire the technology to support the Regional Incident Communication and Coordination System as approved by the Council.

FEDERAL PAYMENT TO THE WATER AND SEWER AUTHORITY OF THE DISTRICT OF COLUMBIA

The conferees provide a Federal payment of \$1,250,000 to the Water and Sewer Authority of the District of Columbia instead of \$3,000,000 as proposed by the Senate. The House bill contained no similar provision. This funding is for remote monitoring of water quality, including the ability to identify biological or chemical agents.

FEDERAL PAYMENT FOR FAMILY COURT ACT (INCLUDING RESCISSION)

The conferees rescind \$700,000 of funds made available for the Mayor of the District of Columbia. The House and Senate bills contained no similar provision.

From rescinded funds referenced in the paragraph above, the conferees provide a Federal payment of \$700,000 to the Mayor of the District of Columbia Family Court Act. These funds are available for the same purposes and subject to the same reporting and availability requirements that were identified under this heading in the District of Columbia Appropriations Act, 2002. The House and Senate bills contained no similar provision.

DISTRICT OF COLUMBIA FUNDS

OPERATING EXPENSES

DIVISION OF EXPENSES

Language is included under "District of Columbia Funds" to allow the District government to obligate and spend the Federal payments appropriated earlier in this chapter to the District government's general fund.

GOVERNMENTAL DIRECTION AND SUPPORT

The conferees include a provision as proposed by both the House and the Senate that amends language contained in the District of Columbia Appropriations Act, 2002 to allow the funds provided to the Office of the Corporation Counsel to be used to support attorney compensation consistent with performance measures contained in a negotiated collective bargaining agreement.

PUBLIC SAFETY AND JUSTICE

(RESCISSION)

The conferees rescind \$100,000 of the Department of Corrections funds for support of the Corrections Information Council as proposed by the Senate. The House bill contained no similar provision.

CORRECTIONS INFORMATION COUNCIL

From funds rescinded under Public Safety and Justice, the conferees provide \$100,000 for operations of the Corrections Information Council as proposed by the Senate. The House bill contained no similar provision.

PUBLIC EDUCATION SYSTEM

(RESCISSION)

The conferees rescind \$37,000,000 of the Charter School surplus as proposed by both the House and the Senate. This surplus resulted from a lower than projected student enrollment.

HUMAN SUPPORT SERVICES

From funds rescinded under the public education system, the conferees provide \$11,000,000 for the Child and Family Services Agency and \$26,000,000 for the Department of Mental Health, as proposed by both the House and the Senate.

REPAYMENT OF LOANS AND INTEREST

(RESCISSION)

The conferees rescind \$7,950,000 from repayment of loans and interest as proposed by both the House and the Senate.

CERTIFICATES OF PARTICIPATION

From funds rescinded under repayment of loans and interest, the conferees provide

\$7,950,000 to be used for certificates of participation as proposed by both the House and the Senate.

ENTERPRISE AND OTHER FUNDS
WATER AND SEWER AUTHORITY

Language is included to allow the District government to obligate and spend the Federal payments appropriated earlier in this chapter to the District government's general fund.

GENERAL PROVISIONS, THIS CHAPTER

Sec. 401. Use of Emergency Supplemental Funds for Administrative Costs. The conferees include a provision as proposed by both the House and the Senate that allows the District of Columbia to use up to 1 percent of the funds appropriated to the District of Columbia under the Department of Defense and Emergency Supplemental Appropriations for Recovery from and Response to Terrorist Attacks on the United States Act, 2002 (Public Law 107-117) to fund the administrative costs that are needed to fulfill the purposes of that Act.

Sec. 402. Crime Victims Compensation Fund. The conferees include a provision as proposed by both the House and the Senate that amends language contained in the District of Columbia Appropriations Act, 2002 to clarify that the D.C. Courts are allowed to transfer 50 percent of the fund balance from the Crime Victims Compensation Fund to the District's newly established Crime Victims Fund for outreach activities.

The Mayor of the District of Columbia shall expend these funds in accordance with the plan to provide crime victims assistance, required in Section 403 of the Consolidated Appropriations Act (P.L. 106-554; 114 Stat. 2763A-188) and submitted to Congress on September 21, 2001. In addition, the Chief Financial Officer of the District of Columbia shall certify expenditures of these funds in accordance with the requirements set forth in the fiscal year 2002 District of Columbia Appropriations Act Conference Report (House Report 107-321).

Sec. 403. Reserve Fund. The conferees include a provision as proposed by both the House and the Senate that allows any funds not required to meet the seven percent cash reserve balance to be used to address potential deficits in addition to Pay-As-You-Go Capital Funds.

Sec. 404. Washington Metropolitan Area Transit Authority. The conferees include a provision as proposed by the Senate that allows the Washington Metropolitan Area Transit Authority to reprogram up to \$2,400,000 from funds appropriated under Public Law 107-117 for protective clothing and breathing apparatus activities to employee and facility security and completion of the fiber optic network project. The House bill contained no similar provision.

Sec. 405. Transfer Authority for the District of Columbia Courts. The conferees modify a provision proposed by the Senate to allow the District of Columbia Courts to expend up to \$3,000,000 to carry out the District of Columbia Family Court Act of 2001. The provision also allows the Family Court Act funds to be used to reimburse the D.C. Courts for these expenditures now that the Family Court Act funds have become available. The House bill contained no similar provision.

Sec. 406. Technical Correction to the District of Columbia Family Court Act of 2001. The conferees include a provision as proposed by the Senate that makes a technical correction to the District of Columbia Family Court Act of 2001 related to residency requirements of Family Court Act judges. The House bill contained no similar provision.

Sec. 407. Technical Corrections to the District of Columbia Appropriations Act of 2002.

The conferees include a provision as proposed by the Senate that makes two technical corrections in the District of Columbia Appropriations Act, 2002 (Public Law 107-96). The House bill contained no similar provision.

Sec. 408. Administrative Provision. The conferees modify a provision proposed by both the House and the Senate that amends language contained in the District of Columbia Appropriations Act, 2002 (Public Law 107-96) to allow grants to be accepted after 14 calendar days of receipt by the Council of the District of Columbia (barring no written notice of disapproval by a Council member) instead of requiring the Council to pass a law to approve every grant notification submitted for approval. The provision also allows the District to expend other funds if the Chief Financial Officer certifies that the funds are available and are not required to address potential deficits and with prior notification to the Committees on Appropriations of the House of Representatives and Senate of the acceptance, obligation, and expenditure of such funds.

Sec. 409. Chief Financial Officer. The conferees modify a provision proposed by the Senate that extends the Chief Financial Officer's personnel, procurement, and preparation of fiscal impact statement authorities from June 30, 2002 through July 1, 2003. The House bill contained no similar provision.

Insurance Procurement. The conferees do not include a provision as proposed by the Senate to allow the government of the District of Columbia to procure insurance for property damage and tort liability. The House bill contained no similar provision. The District of Columbia received a favorable decision from the General Accounting Office on June 3, 2002 regarding the purchase of commercial insurance against catastrophic risks; therefore this language is no longer needed.

CHAPTER 5

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

OPERATION AND MAINTENANCE, GENERAL

The conference agreement includes a total of \$140,200,000 for Operation and Maintenance, General.

Of the total, \$108,200,000 is for emergency expenses at Corps of Engineers projects and facilities. The entire amount has been designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended. The availability of these funds is contingent on receipt of a budget request from the President designating the requested funds as an emergency requirement pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

In addition, the conference agreement includes language which would permit these funds and funds appropriated under Public Law 107-117 to be used at any facility owned or operated by, or on behalf of, the Corps of Engineers, including administrative buildings and facilities.

The conference agreement also includes \$32,000,000 for repair, restoration and clean-up of Corps projects and facilities, dredging of navigation channels, restoration and clean out of area streams, emergency streambank protection, restoration of other crucial public infrastructure, documenting flood impacts, and undertaking other flood recovery efforts deemed necessary and advisable by the Chief of Engineers. Of the total, \$10,000,000 is for Southern West Virginia, Eastern Kentucky, and Southwestern Virginia; and \$22,000,000 is for Western Illinois,

Southern Indiana, Eastern Missouri, and the Upper Peninsula of Michigan.

DEPARTMENT OF THE INTERIOR

BUREAU OF RECLAMATION

WATER AND RELATED RESOURCES

The conference agreement includes \$7,000,000 for the Water and Related Resources account of the Bureau of Reclamation. Of the total, \$3,000,000 is for the drilling of emergency wells in Santa Fe, New Mexico, and \$4,000,000 is for the lease of up to 38,000 acre-feet of emergency water for the Rio Grande in New Mexico in compliance with the existing biological opinion. Section 504 of the Senate bill included \$3,000,000 for the drilling of emergency wells in Santa Fe.

DEPARTMENT OF ENERGY

ENERGY PROGRAMS

SCIENCE

The conference agreement provides \$24,000,000 for Science to enhance safeguards and security of nuclear and other materials at Department of Energy Science laboratories instead of \$29,000,000 as proposed by the House and no funding as proposed by the Senate. These funds are available for obligation through September 30, 2002.

The availability of these funds is contingent upon receipt of a budget request from the President designating the fund as an emergency requirement pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985.

ATOMIC ENERGY DEFENSE ACTIVITIES

NATIONAL NUCLEAR SECURITY

ADMINISTRATION

WEAPONS ACTIVITIES

(INCLUDING RESCISSION)

The conference agreement provides \$158,050,000 for Weapons Activities instead of \$125,400,000 as proposed by the House and \$181,650,000 as proposed by the Senate. These funds are available for obligation through September 30, 2002.

The recommendation includes \$19,400,000 for nuclear weapons incident response and emergency response activities as requested by the Administration.

Additional funding of \$18,000,000 has been provided for secure transportation of nuclear weapons and materials.

For counter-terrorism activities and preparedness, \$33,500,000 has been provided for operation and/or construction activities on various projects at the National Center for Combating Terrorism.

Safeguards and security.—Additional funding of \$87,150,000 has been provided for increased safeguards and security needs at the Department's nuclear weapons facilities. Despite the lack of a request from the Administration for these activities, the conference agreement has provided funding for explosive detection equipment, protective force support, hardened perimeter barriers, consolidation of special nuclear materials, and complex-wide security improvements. Of these funds, \$25,000,000 is provided for cyber-security activities.

Of the additional funding provided for increased safeguards and security needs, a minimum of \$12,600,000 is provided for the Pantex Plant in Texas and \$25,100,000 for the Y-12 Plant in Tennessee.

The conferees direct that the funding provided for safeguards and security be used only for its stated purpose and not as an indirect source for other site services or activities, especially those unrelated to safeguards and security.

Funding of \$19,400,000 has been designated by the President as an emergency requirement. The availability of the remaining \$138,650,000 is contingent upon receipt of a

budget request from the President designating the funds as an emergency requirement pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985.

(RESCISSION)

The conference agreement includes a rescission of \$14,460,000 of funds appropriated to the National Nuclear Security Administration (not including the nuclear nonproliferation and naval reactors programs) in Public Law 107-66 and prior Energy and Water Development Appropriations Acts.

DEFENSE NUCLEAR NONPROLIFERATION

The conference agreement includes \$100,000,000 for Defense Nuclear Nonproliferation as proposed by the Senate instead of \$5,000,000 as proposed by the House. The funds are available for obligation through December 31, 2002.

Funding of \$35,000,000 is provided for nonproliferation and verification and development to develop sensors and other technologies to prevent nuclear and other deadly materials from entering this country, detect these substances elsewhere in the nation, and enhance preparedness in the event of an attack. Of these funds, not less than \$20,000,000 is provided to accelerate and expand the nuclear and radiological national security program.

Funding of \$30,000,000 is provided for the International Materials Protection, Control and Accounting program to plan and initiate nuclear materials protection and control activities in countries other than the former Soviet Union and to accelerate current programs in Russia.

Funding of \$15,000,000 is provided for the Arms Control program. Of this amount, \$6,000,000 is to implement the U.S.-DPRK Agreed Framework; \$4,000,000 is for additional International Atomic Energy Agency (IAEA) safeguards and nonproliferation support for specific countries under safeguards; and \$5,000,000 is for nuclear materials security programs in IAEA member countries.

Elimination of Weapons-Grade Plutonium Production.—Funding of \$10,000,000 is provided to accelerate the transfer of the Elimination of Weapons-Grade Plutonium Production in Russia program to the Department of Energy from the Department of Defense by the Administration for fiscal year 2003. The total estimated cost of this program is almost \$500,000,000, and the current completion date of 2006 may be difficult to achieve.

The conferees note that this is a very complicated program to implement, involving substantial contributions by and coordination with the Russian Government. Accordingly, the conferees direct the Administrator of NNSA to require the application of the Department's established directives or project management, to include acquisition planning, alternative analysis, and critical decision approvals of these products at the level prescribed by the Department's directives, before expenditure of funds appropriated for this program can begin.

The conferees are aware that the Department allowed its contractor to initiate program activities in advance of receiving funds for this program. None of the funds provided in this Act may be used to repay expenses incurred by the Department or its contractors for activities conducted prior to enactment of this Act.

Return of Domestic Sealed Sources.—The conference agreement provides \$10,000,000 to accelerate the recovery of excess radioactive materials in the United States through the Department's Offsite Source Recovery program. With this funding, it should be possible to compress the recovery schedule to 18 months for over 5000 excess sealed sources. The conferees direct the Secretary to submit to the House and Senate Committees on Ap-

propriations by October 31, 2002, a program plan detailing the activities, with costs, schedules and deliverables, to be accomplished in this program.

OFFICE OF THE ADMINISTRATOR

The conference agreement provides \$1,750,000 for the Office of the Administrator as proposed by the Senate instead of no funding as proposed by the House. The funds are available for obligation through September 30, 2002.

The availability of these funds is contingent upon receipt request from the President designating the funds as an emergency requirement pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985.

ENVIRONMENTAL AND OTHER DEFENSE ACTIVITIES

DEFENSE ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT (INCLUDING RESCISSION)

The conference agreement provides \$56,000,000 for Defense Environmental Restoration and Waste Management to enhance safeguards and security at several Department of Energy environmental management cleanup sites instead of \$67,000,000 as proposed by the House and \$40,000,000 as proposed by the Senate. These funds are available for obligation through September 30, 2000.

The following sites should be provided priority in the distribution of this additional funding: the Savannah River Site in South Carolina, the Hanford site in Richland, Washington; the Idaho site; and the Oak Ridge site in Tennessee.

The availability of these funds is contingent upon receipt of a budget request from the President designating funds as an emergency requirement pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985.

(RESCISSION)

The conference agreement includes a rescission of \$15,540,000 of funds appropriated for Defense Environmental Restoration and Waste Management activities in Public Law 107-66 and prior Energy and Water Development Appropriation Acts.

DEFENSE FACILITIES CLOSURE PROJECTS

The conference agreement provides \$14,000,000 for Defense Facilities Closure Projects to enhance safeguards and security at several closure sites instead of \$16,600,000 as proposed by the House and no funding as proposed by the Senate. These funds are available for obligation through September 30, 2002.

The availability of these funds is contingent upon receipt of a budget request from the President designating funds as an emergency requirement pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985.

OTHER DEFENSE ACTIVITIES

The conference agreement provides \$7,000,000 for Other Defense Activities for critical energy security and assurance activities as proposed by the House and the Senate and the same as the budget request. These funds are available for obligation through September 30, 2002.

The entire amount has been designated by the President as an emergency requirement pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985.

GENERAL PROVISIONS—THIS CHAPTER

Sec. 501. The conference agreement includes a provision proposed by the Senate regarding a biomass project in Winona, Mississippi.

Sec. 502. The conference agreement includes a provision proposed by the Senate re-

quiring the Secretary of Energy to award a contract for two depleted uranium hexafluoride facilities.

Provisions not adopted.—The conference recommendation modifies a provision proposed by the Senate to rescind \$30,000,000 from various Department of Energy accounts. The conference agreement provides alternative funding sources for this rescission.

The conference recommendation does not include a provision proposed by the Senate providing \$3,000,000 for the Bureau of Reclamation to drill five wells in New Mexico. Funding for this activity has been included in the Bureau of Reclamation, Water and Related Resources appropriation account.

CHAPTER 6

REPORTING AND NOTIFICATIONS

The managers direct the Administration to submit a financial plan to the Committees on Appropriations regarding the use of funds appropriated in this chapter within 30 days of the enactment of this Act. Further, the managers direct the Department of State and the United States Agency for International Development to implement programs, projects and activities recommended in this chapter consistent with the budget justification material submitted to the Congress, as modified by the conference agreement. Any proposed changes in funding for programs, projects, and activities shall be reported to the Committees on Appropriations in conformance with regular notification procedures.

EMERGENCY DESIGNATIONS

The conference agreement includes an emergency designation pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, for each of the appropriations paragraphs recommended in this chapter. Appropriations that exceed the President's request include a requirement for an emergency designation by the President for the amount of the appropriation that differs from the request. The requirement for a Presidential designation of emergency spending applies to all funds appropriated under headings for which there is no official budget request.

BILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

CHILD SURVIVAL AND HEALTH PROGRAMS FUND

The conference agreement appropriates, subject to the regular notification procedures of the Committee on Appropriations, \$200,000,000 to remain available until June 30, 2003, for emergency expenses for activities related to combating AIDS, tuberculosis, and malaria. Additional assistance to be provided for mother-to-child transmission of HIV/AIDS and for maternal health and other assistance to communities significantly affected by HIV/AIDS.

The conference agreement provides that not less than \$100,000,000 under this heading in this Act should be made available for the Global Fund to Fight AIDS, Tuberculosis, and Malaria (Global Fund). Language similar to the House bill also provides that the cumulative amount of funds made available in this or prior Acts under this heading and under the heading "Child Survival and Disease Programs Fund" for the Global Fund may not exceed the total resources provided by all donors to the Global Fund for calendar year 2002.

In addition, the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, and shall be

available only to the extent an official budget request that includes designations of the entire amount of the request as an emergency requirement as defined in said Act is transmitted by the President to the Congress.

INTERNATIONAL DISASTER ASSISTANCE

The conference agreement appropriates \$184,000,000, instead of \$190,000,000 as proposed by the House and \$150,000,000 as proposed by the Senate. These funds include up to \$134,000,000 for activities in Afghanistan, including repairs of houses damaged during military operations, and \$50,000,000 for activities in the West Bank and Gaza. Funds are available for obligation until September 30, 2003, as proposed by the House instead of March 31, 2003, as proposed by the Senate.

The managers note that while the situation of women in Afghanistan has improved since the Taliban era, serious obstacles, including illiteracy, joblessness, violence against women, lack of access to health care, and lack of clearly defined rights continue to hinder the progress of Afghan women. The managers understand the difficulties inherent in implementing assistance programs in Afghanistan but are nonetheless concerned about the slow pace and relatively small amount of assistance devoted specifically to improving the lives and opportunities of Afghan women. The Afghan Ministry of Women's Affairs is uniquely positioned to become the primary center of capacity to carry out women-focused development in Afghanistan, and the managers commend USAID for the support it has given to the Ministry thus far. The managers strongly recommend that not less than \$2,500,000 from this account be provided to enable the Ministry to establish multi-service women's centers throughout Afghanistan for the purpose of implementing programs to improve women's and girl's health and expand economic opportunities through vocational and literacy training.

The conference agreement includes \$50,000,000 for humanitarian assistance for the West Bank and Gaza, which must be designated by the President as emergency spending. The House bill and the Senate amendment included similar provisions, except that the House bill would have appropriated these funds under "Economic Support Fund" and transferred them to "International Disaster Assistance". In addition, the conference agreement includes language that prohibits the obligation or expenditure of funds to the Palestinian Authority. The managers direct that all funds appropriated under this heading in the Act for the West Bank and Gaza shall be made available for humanitarian assistance only through non-governmental organizations.

OPERATING EXPENSES OF THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

The conference agreement appropriates \$7,000,000 as proposed by the House instead of \$5,000,000 as proposed by the Senate. These funds would be used to implement programs recommended elsewhere in this chapter, and for security costs in Afghanistan and Pakistan.

An additional \$6,000,000 for operating expenses is available by transfer from funds appropriated under the heading "Child Survival and Health Programs Fund" for the management and oversight of programs funded under this heading in this Act and in P.L. 107-115.

The managers are concerned that insufficient consideration has been given to the provision of interim secure housing and office facilities for the staff who will manage programs in Afghanistan that are funded in this and prior appropriations Acts. Not less than five days prior to the transmittal of the report on Afghanistan security required

under section 603 of the Act, the Under Secretary of State for Management and the Administrator of the United States Agency for International Development are to consult with the Committees regarding the Department's plans for interim and permanent facilities for United States personnel in Kabul, Afghanistan.

OTHER BILATERAL ECONOMIC ASSISTANCE

ECONOMIC SUPPORT FUND

The conference agreement appropriates \$665,000,000 instead of \$660,000,000 as proposed by the House and \$700,000,000 as proposed by the Senate. (The House bill included a total of \$710,000,000 in this account, but \$50,000,000 of those funds were proposed for transfer to "International Disaster Assistance" for the West Bank and Gaza. This issue is addressed under "International Disaster Assistance".) Funds may remain available for obligation until June 30, 2003.

The conference agreement does not include language in the Senate amendment that would have provided that \$50,000,000 should be made available for the Middle East Economic Initiative (MEEI). The House bill did not address this matter. The managers agree the initiative should receive an allocation of not to exceed \$25,000,000. Funding priorities should include education, commercial law reform, trade technical assistance, and civil society and rule of law programs. Within the funds made available for the MEEI, the managers strongly support the funding of additional scholarships for foreign students at American educational institutions in the Middle East, including scholarships for students from central Asia.

The conference agreement includes \$200,000,000 for anti-terrorism assistance for Israel as proposed by the House and Senate, which must be designated by the President as emergency spending. It also includes language proposed by the Senate that would authorize the transfer of all or a portion of these funds to "Nonproliferation, Anti-Terrorism, Demining and Related Programs" for defensive, non-lethal anti-terrorism assistance. The managers strongly support the expeditious programming of these funds in order to assist the State of Israel in its response to international terrorism.

The conference agreement includes language similar to that in the Senate amendment that would require that the Committees on Appropriations be informed 15 days prior to the obligation of funds provided under this heading in this Act. The House bill did not address this matter.

The conference agreement does not include Senate language providing \$3,500,000 for programs and activities that provide professional training for journalists from the Middle East. The House bill did not address this matter. The managers recognize the importance of such programs and encourage the United States Agency for International Development and the Department of State to provide up to \$1,000,000 for such activities.

The conference agreement provides that \$10,000,000 under this heading should be made available for the establishment of a pilot academic year international youth exchange program for secondary school students from countries with significant Muslim populations, modeled after the Future Leaders Exchange involving students from the former Soviet republics. The Senate amendment had earmarked \$20,000,000 for this purpose. The House bill did not address this matter.

The conference agreement includes language that provides that \$1,000,000 should be provided for programs and activities that support the development of independent media in Pakistan. The Senate amendment

would have mandated \$3,500,000 for such programs and activities. The House bill did not address this matter.

ASSISTANCE FOR THE INDEPENDENT STATES OF THE FORMER SOVIET UNION

The conference agreement provides that funds shall remain available for obligation until June 30, 2003.

The conference agreement does not include Senate language not in the House bill that would have limited assistance to certain specified countries.

The conference agreement does not include Senate language providing that not less than \$7,000,000 shall be made available for the development of democratic institutions and the protection of human rights, which amount shall be administered by the Bureau of Democracy, Human Rights, and Labor, Department of State. However, it is the manager's understanding based on information provided by the Coordinator of Assistance to Europe and Eurasia that not less than \$10,000,000 will be made available for democracy and human rights programs in Central Asia. The managers expect that within 30 days of enactment of this Act, the Coordinator will provide the Committees on Appropriations with a comprehensive report on the democracy and human rights programs and activities to be conducted in Central Asia with funds appropriated by this Act, including a schedule for the obligation and disbursement of funds.

The managers commend USAID's Central Asia mission for its focus on economic growth, education, and health in Central Asia, and expect that a significant amount of the additional resources provided in this Act will be allocated to these sectors. Because of the special needs in the region, emphasis should be placed on microcredit and clean water programs.

The conference agreement includes language similar to that in the Senate amendment that would require that the Committees on Appropriations be informed 15 days prior to the obligation of funds provided under this heading in this Act. The House bill did not address this matter.

DEPARTMENT OF STATE

INTERNATIONAL NARCOTICS CONTROL AND LAW ENFORCEMENT

The conference agreement appropriates \$117,000,000 instead of \$120,000,000 as proposed by the House and \$104,000,000 as proposed by the Senate. These funds would remain available for obligation until September 30, 2003, as proposed by the House instead of March 31, 2003, as proposed by the Senate.

The conference agreement provides that funds appropriated under the heading "International Narcotics Control and Law Enforcement" should be made available to train and equip a Colombian Armed Forces unit dedicated to apprehending the leaders of paramilitary organizations. The language differs slightly from that included in the Senate amendment, which was included under the heading "Foreign Military Financing". The House bill did not address this matter.

The conference agreement does not include Senate language providing \$2,500,000 for training, equipment, and other assistance for park rangers for the Colombian National Park Service. However, the managers are aware of Colombia's extraordinary system of national parks and reserves and of the grave threats to these areas posed by coca farmers, illegal loggers, and armed conflict. The managers recognize the substantial environmental and eco-tourism importance of these parks and reserves. The managers intend to provide assistance to the Colombia National Park Service to help protect these areas with funding in fiscal year 2003 from the Andean Counterdrug Initiative.

The conference agreement includes language similar to that in the Senate amendment that not to exceed \$4,000,000 should be available for police training in Indonesia. The House bill did not address this matter.

The conference agreement includes language similar to that in the Senate amendment that would require that the Committees on Appropriations be informed 15 days prior to the obligation of funds provided under this heading in this Act. The House bill did not address this matter.

The conference agreement provides that \$6,000,000 under this heading may be made available for assistance for the Colombian Armed Forces for purposes of protecting the Cano Limon pipeline. The managers are aware that the majority of people living in Arauca department, where the Cano Limon pipeline is located, remain impoverished despite the extraction of oil worth billions of dollars from that area. The conference agreement provides that prior to the obligation of funds for purposes of protecting the pipeline, the Secretary of State shall submit a report describing oil revenues by the Government of Colombia from the pipeline during the preceding 12 months, amounts expended by the government and private oil companies with a financial interest in the pipeline for programs to improve the lives of the people in Arauca, steps being taken to increase and expand such programs, and mechanisms being established to monitor such funds. The contents of the report will be considered by the Committees on Appropriations in connection with the fiscal year 2003 budget.

MIGRATION AND REFUGEE ASSISTANCE

The conference agreement appropriates \$40,000,000 instead of \$10,000,000 as proposed by the House and \$50,000,000 as proposed by the Senate. The conference agreement provides that funds shall remain available for obligation until June 30, 2003 instead of September 30, 2003 as proposed by the House and March 31, 2003 as proposed by the Senate.

The managers recognize the troubling situation facing many internally displaced persons (IDPs) in Colombia. It is the manager's understanding that the number of IDPs is multiplying as the civilian population bears much of the burden of the civil strife. Therefore the managers recommend that of the funds appropriated under this heading or under the heading "International Narcotics Control and Law Enforcement" in this chapter, up to \$10,000,000 may be made available to the State Department for emergency IDP needs.

The conference agreement does not include language in the Senate amendment that would subject the funds to the regular notification procedures of the Committees on Appropriations. The House bill did not address this matter.

NONPROLIFERATION, ANTI-TERRORISM, DEMINING, AND RELATED PROGRAMS

The conference agreement appropriates \$88,000,000 instead of \$83,000,000 as proposed by the House and \$93,000,000 as proposed by the Senate. These funds would remain available for obligation until September 30, 2003, as proposed by the House instead of March 31, 2003, as proposed by the Senate.

The conference agreement includes language similar to that in the Senate amendment that provides that not to exceed \$12,000,000 should be made available for assistance for Indonesia. However, it does not include Senate language relating to the purposes of the funds or language that would have prohibited funds for assistance for members of "Brimob" Mobile Police Brigade units. This language has not been included since the Department of State has assured the managers that no funds will be provided for assistance for these units, or for

Kopassus units of the Indonesian military. The House bill did not address this matter.

The conference agreement provides that up to \$1,000,000 may be made available for the Nonproliferation and Disarmament Fund (NDF). The Senate amendment would have mandated this level of funding. The House bill did not address this matter.

The conference agreement provides that up to \$1,000,000 may be made available for small arms and light weapons destruction in Afghanistan. The Senate amendment would have mandated \$2,000,000 for this activity. The House did not address this matter.

The conference agreement does not include Senate language not in the House bill that would have required the allocation of not less than \$10,000,000 for humanitarian demining activities. However, the managers strongly support humanitarian demining and direct that not less than \$4,000,000 be allocated for these activities.

The conference report includes Senate language requiring that funds provided under this heading in this Act shall be subject to the regular notification procedures of the Committee on Appropriations. The House bill did not address this matter.

The managers request that prior to the obligation of funds for Antiterrorism Assistance Mobile Emergency Training Teams, the Department of State inform the Committees on Appropriations of the amount of such funds that would be made available for administrative costs. In addition, the managers request a report from the Department of State within 60 days of enactment of this Act on the degree to which the Terrorist Interdiction Program (TIP) cooperates with other agencies of the United States Government to ensure there is no duplication of effort. The report should specify the current and projected resource levels for programs in all agencies that have complementary programs. A classified annex to the report should be provided if deemed necessary.

MILITARY ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

FOREIGN MILITARY FINANCING PROGRAM

The conference agreement appropriates \$387,000,000 instead of \$366,500,000 as proposed by the House and \$347,500,000 as proposed by the Senate. Funds may remain available for obligation until June 30, 2003. In addition, the conference agreement includes House language to provide the Department of Defense with the authority to use \$2,000,000 requested by the President for the general costs of administering overseas military assistance programs. The Senate amendment did not address this matter.

The managers direct that a total of \$55,000,000 shall be made available for assistance for the Philippines, an increase of \$30,000,000 above the budget request. The increase must be designated by the President as an emergency.

The conference agreement does not include Senate language not in the House bill that would have limited assistance to certain specified countries.

The conference agreement includes language similar to that in the Senate amendment that would require that the Committees on Appropriations be informed 15 days prior to the obligation of funds provided under this heading in this Act. The House bill did not address this matter.

The conference agreement does not include Senate language exempting only Afghanistan from the provisions of section 512 of the Foreign Assistance Act or any similar provision of law. All funds appropriated under this heading would be exempt from this provision of law, as proposed by the House.

The conference agreement includes language similar to that in the Senate amend-

ment that provides that funds in this Act may be made available for the Government of Uzbekistan if the Secretary of State determines and reports to the Committees on Appropriations that the Government of Uzbekistan is making substantial and continuing progress in meeting its commitments under the "Declaration on the Strategic Partnership and Cooperation Framework Between the Republic of Uzbekistan and the United States of America". The House did not address this matter.

Funds requested for assistance for Colombia for protection of the Cano Limon pipeline are included under the heading "International Narcotics Control and Law Enforcement".

PEACEKEEPING OPERATIONS

The conference agreement provides that funds appropriated under this heading may be available for obligation until June 30, 2003. In addition, the conference agreement includes Senate language not in the House bill that limits the assistance provided in this paragraph to Afghanistan.

RESCISSIONS

The conference agreement includes a rescission of \$60,000,000 from funds appropriated to carry out the provisions of parts I and II of the Foreign Assistance Act of 1961, the Support for East European Democracy (SEED) Act of 1989, and the FREEDOM Support Act, in title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2000 (as contained in Public Law 106-113) and in prior Acts making appropriations for foreign operations, export financing, and related programs. Of these funds, not more than a total of \$25,000,000 may be rescinded from funds appropriated under the heading "Development Assistance." In addition, no rescission may be made from funds appropriated for health and disease programs pursuant to section 104(c) of the Foreign Assistance Act of 1961. It is the intention of the managers that no rescission be derived from activities earmarked or subject to minimum funding levels.

The House bill would have rescinded \$60,000,000 from funds appropriated to "Development Assistance" and "Economic Support Fund". The Senate bill would have rescinded \$25,000,000 from funds appropriated to "Economic Support Fund." This rescission was addressed in section 604 of the Senate amendment.

The conference agreement also contains Senate language requiring a rescission of \$50,000,000 from funds under the heading "Export-Import Bank of the United States" that are available for tied-aid grants. The House bill did not address this matter. This rescission was addressed in section 604 of the Senate amendment.

The conference agreement also contains Senate language requiring a rescission of unobligated balances totaling \$159,000,000 from certain funds available to International Financial Institutions. The House bill contained the same rescission, with certain technical differences.

GENERAL PROVISIONS—THIS CHAPTER

Under section 601, the conference report includes language that provides that fiscal year 2002 funds, unexpired balances, and assistance provided from prior years' Acts shall be available to support a unified campaign against narcotics trafficking and designated terrorist organizations, and to take actions to protect human health and welfare.

The new authorities provided are intended to be used against terrorist organizations identified by the State Department. However, the managers recognize that in certain emergency situation, such as kidnappings,

the use of United States assets may be required to protect human health and welfare before the affiliation of the perpetrators has been determined. The managers expect this authority will be continued in fiscal year 2003 unless the new government of Colombia fails to make good faith efforts to fulfill the commitments made in subsections (b) and (c). The managers also intended these authorities to continue to be in effect in the event a continuing resolution is necessary for a portion of fiscal year 2003.

The conference report requires the Secretary of State to report that the newly elected President of Colombia has made several commitments, in writing, regarding policies, budgetary reforms, and the allocation of Colombian financial resources. The managers expect the Secretary to provide copies of these written commitments to the Committees on Appropriations.

Although section 603 of the House bill requiring a report on Andean security strategy is not included in the conference report, the managers are concerned that the Administration has inadequately articulated clear objectives of U.S. policy in Colombia, what actions would be required, and what it would cost to achieve those objectives. Therefore, the managers direct that within 90 days of enactment of this Act, the Secretary of State, in consultation with the Secretary of Defense, submit a report to the Committees on Appropriations, describing in detail—(1) the President's policy toward Colombia; the objectives of that policy; the actions required by and the expected financial costs to the United States, Colombia, and any other country or entity to achieve those objectives; and the expected time schedule for achieving those objectives; (2) specific benchmarks for measuring progress toward achieving the objectives of the President's policy; (3) the expected reduction, if any, in the amount of cocaine and heroin entering the United States as a result of the President's Andean Counterdrug Initiative within the expected time schedule; and (4) the mission and objectives of United States Armed Forces personnel and civilian contractors employed by the United States in connection with such assistance, and the threats to their safety in Colombia.

Under section 603, the conference agreement includes a general provision similar to section 606 of the Senate amendment regarding Afghanistan security and the delivery of assistance. The conference agreement requires the President to transmit two reports, the first on immediate security needs, and the second on long-term security needs.

The conference agreement does not include Senate language that would have earmarked \$34,000,000 for the United Nations Population Fund (UNFPA). The managers note that \$34,000,000 was provided for this purpose in P.L. 107-115, and are concerned that the funds have not yet been made available for obligation. The managers note that a Presidential determination regarding UNFPA activities in China, together with the accompanying State Department report on its investigation of those activities in China, has not been made or transmitted to Congress, contrary to written assurances by the Director of the Office of Management and Budget.

CHAPTER 7

DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

MANAGEMENT OF LANDS AND RESOURCES

The conference agreement provides \$658,000 for Management of Lands and Resources as proposed by the House. The Senate had proposed funding the repayment of Bureau law enforcement costs under Departmental Management.

UNITED STATES FISH AND WILDLIFE SERVICE RESOURCE MANAGEMENT

The conference agreement provides \$1,038,000 for Resource Management, instead of \$1,443,000 as proposed by the House and \$412,000 as proposed by the Senate. The amount recommended includes the \$1,412,000 for continuity of operations as proposed by both the Houses and Senate and \$626,000 for the repayment of law enforcement costs. The Senate had proposed funding the repayment of service law enforcement costs under Departmental Management.

CONSTRUCTION

The conference agreement provides \$3,125,000 for construction as proposed by the Senate instead of no funding as proposed by the House.

NATIONAL PARK SERVICE

OPERATION OF THE NATIONAL PARK SYSTEM

The conference agreement provides \$1,173,000 for Operation of the National Park System as proposed by the House. The Senate had proposed funding the repayment of Service law enforcement costs under Departmental Management.

CONSTRUCTION

The conference agreement provides \$17,651,000 for Construction as proposed by the Senate instead of \$25,700,000 as proposed by the House.

UNITED STATES GEOLOGICAL SURVEY SURVEYS, INVESTIGATIONS, AND RESEARCH

The conference agreement provides \$26,000,000 as proposed by the House and \$25,700,000 as proposed by the Senate. The conference agreement conforms to the Senate recommendation except the \$776,000 for an improved backup power system is not included.

BUREAU OF INDIAN AFFAIRS OPERATION OF INDIAN PROGRAMS (INCLUDING RESCISSION OF FUNDS)

The conference agreement provides \$134,000 for the Operation of Indian Programs as proposed by the House. The Senate had proposed funding the repayment of Bureau law enforcement costs under Departmental Management. The conference agreement also rescinds \$10,000,000 in excess funds from the San Carlos Irrigation project as proposed by the Senate instead of a rescission of \$5,000,000 as proposed by the House. The conference agreement also includes language as proposed by the House redirecting excess funds (after the rescission) from the San Carlos Irrigation Project for trust reform costs related to the ongoing Cobell and other litigation related to management of Indian trust funds.

DEPARTMENTAL OFFICES DEPARTMENTAL MANAGEMENT SALARIES AND EXPENSES

The conference agreement provides \$905,000 for Salaries and Expenses as proposed by the House instead of \$7,030,000 as proposed by the Senate.

DEPARTMENT OF AGRICULTURE FOREST SERVICES

WILDLAND FIRE MANAGEMENT

The conference agreement provides \$50,000,000 as an emergency contingent appropriation for Wildland Fire Management instead of no funds as proposed by both the House and the Senate.

CAPITAL IMPROVEMENT AND MAINTENANCE

The conference agreement provides \$3,500,000 for Capital Improvement and Maintenance as proposed by the Senate instead of no funding as proposed by the House.

RELATED AGENCY SMITHSONIAN INSTITUTION SALARIES AND EXPENSES

The conference agreement provides \$10,000,000 for Salaries and Expenses instead of \$11,000,000 as proposed by the House and no funding as proposed by the Senate.

CONSTRUCTION

The conference agreement provides \$2,000,000 for Construction as proposed by both the House and the Senate.

GENERAL PROVISIONS, THIS CHAPTER

Section 701 retains the text of House section 701 mandating the release of previously appropriated emergency firefighting funds to the Forest Service.

Section 702 retains the text of House section 702 providing that no funds, except funds appropriated to the Office of Management and Budget, can be spent to study the transfer of research functions from the Smithsonian Institution to the National Science Foundation.

Section 703 modifies the text of House section 703 dealing with the collection and retention of fees at Midway Atoll National Wildlife Refuge. The modification allows the Secretary of the Interior to charge reasonable fees for services provided at Midway Atoll National Wildlife Refuge, including fuel sale, and retain those fees for operation and maintenance of infrastructure and staff required for non-refuge specific needs, including, but not limited to, activities and equipment required for airport operating certification and the purchase of fuel. The Fish and Wildlife Service currently has an airport operating certificate as provided in 49 U.S.C. 44706. The Service should continue to maintain certification and recoup costs from organizations that directly benefit from airport certification, as well as charging fees for services. The Service also should establish cooperative agreements to facilitate continued airport operations.

Section 704 retains the text of Senate section 701 providing authority to the MMS to recover transportation and administrative costs associated with filling the Strategic Petroleum Reserve.

Section 705 makes a technical modification to the text of House section 704 dealing with reciprocal authority for treatment of foreign and U.S. firefighters. The Senate addressed this issue in section 702. The balance of Senate section 702, dealing with the Black Hills National Forest, is addressed in section 706.

Section 706 replaces the text of Senate section 702 dealing with the Black Hills National Forest. The managers have agreed to bill language, which allows the Forest Service to undertake actions to address promptly the risk of fire and insect infestation in the Black Hills National Forest, SD. In addition, the language designates a small addition to the existing lack Elk Wilderness area on the forest.

The conference agreement does not include language proposed by the House in section 705 prohibiting the Department of Defense from being held responsible for civilian water consumption that is outside the boundaries of a military installation and beyond the direct authority and control of the Secretary of Defense for purposes of the Endangered Species Act.

CHAPTER 8

DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

TRAINING AND EMPLOYMENT SERVICES

The conference agreement deletes funding provided in both bills for Training and Employment Services. The House bill had provided \$300,000,000 and the Senate bill provided \$400,000,000. The conferees have decided

that these funds should be considered during the regular fiscal year 2003 appropriations process.

The conferees understand that the Department is cutting its support for capacity building efforts of national community based organizations. The conferees urge the Department to reconsider its support for these organizations in this fiscal year. Heretofore, the Committee have provided considerable latitude to the Department in the allocation of capacity building funds. However, this may need to be reconsidered in the fiscal year 2003 appropriations process.

The conferees note that young adults, age 16 to 24 have been disproportionately affected by the decline in total employment over the past year. Therefore, the conferees strongly urge that special attention be given to the employment needs of young adult dislocated workers in utilizing available funds for dislocated worker assistance.

The conferees were pleased to learn from the Secretary that the Administration has established an interagency effort to address our nation's nursing shortage. The shortage is especially critical in rural America and within various ethnic minority populations. The Department is strongly urged to work with nursing programs that work with these affected populations and, in particular, to ensure that summer employment opportunities exist for nursing students.

The conferees concur with language contained in the Senate report directing the Department to award a grant for the New Mexico Telecommunications Call Center Training Consortium.

COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS

The conferees direct the Department of Labor to implement the grantee responsibility tests under Section 514(d) of the Older Americans Act and to conduct a grant competition for only those Title V funds administered by national grantees that fail to be deemed responsible. The conferees further direct the Department to implement corrective action, as set forth in Section 514(e) of the Older Americans Act, for any national grantee failing to meet established performance measures. The conferees expect the Department to also implement performance measures and competition for states as authorized under Section 514(f) of the Act.

PENSION BENEFIT GUARANTY CORPORATION

The conferees express deep concern regarding actions taken by the Pension Benefit Guaranty Corporation (PBGC) on June 14, 2002 to terminate pension plans in advance of a plant shutdown in order to avoid paying "shutdown" benefits that had been negotiated between a company and its workers. This policy shift was made without advance notice to the parties involved. Furthermore, this policy adjustment is a significant change in the practice that the PBGC had engaged in over the past eight years. The action taken by the PBGC will result in disparate treatment of workers in similar situations, with workers in a plant that shutdown prior to June 14, 2002 receiving "shutdown" benefit and workers in a plant that shutdown after June 14, 2002 not receiving "shutdown" benefits. The conferees strongly urge the PBGC to reconsider its action to terminate several pension plans on June 14, 2002.

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION SALARIES AND EXPENSES

The conference agreement includes a provision proposed by the Senate to direct the allocation of funds within the funds provided in Public Law 107-116 to extend funding for Institutional Competency Building training

grants for the period September 30, 2002 through September 30, 2003, but specifies not less than \$3,200,000 for this purpose, instead of \$4,275,000 as proposed by the Senate. The House bill contains no similar provisions. The conference agreement deletes language proposed by the Senate to restore \$1,000,000 for Institutional Competency Building training grants which commenced in September 2000, for program activities ending September 30, 2002. It also deletes, without prejudice, language proposed by the Senate specifying that \$5,900,000 be used to extend funding for targeted training grants for the period September 30, 2002 through September 30, 2003; this bill language is no longer necessary, since the conferees understand that the Labor Department intends to provide second-year funding to all targeted training grants which commenced in September 2001 for program activities for the period of September 30, 2002 to September 30, 2003, provided that a grantee has demonstrated satisfactory performance.

DEPARTMENT OF HEALTH AND HUMAN SERVICES HEALTH RESOURCES AND SERVICES ADMINISTRATION

HEALTH RESOURCES AND SERVICES

The conference agreement includes bill language proposed by both the House and Senate to revise the funding earmarked for the construction and renovation of health care facilities within the total funding previously appropriated for the account, with one additional bill language provision that changes the grantee for a \$4,000,000 project within the Maternal and Child Health grant program from Columbia Hospital for Women Medical Center, Washington, D.C. to All Children's Hospital, St. Petersburg, Florida.

The conferees make the following modification to the report language in the House and Senate bills. The funds available in Public Law 107-116 to carry out Section 417C of the Public Health Service Act (42 U.S.C. 285a-9) are to be used for grants for education, prevention and early detection of radiogenic cancers and diseases, of which \$1,000,000 shall be available to enter into a contract or cooperative agreement with the National Research Council to conduct a study under which the Council shall: (1) provide technical assistance to the Health Resources and Services Administration (HRSA) and its grantees on improving accessibility and quality of medical screening, education and referral services; (2) report to HRSA on the most recent scientific information related to radiation exposure and associated cancers or other diseases, with recommendations for improving services for exposed persons; and (3) review and make recommendations on whether other classes of individuals or additional geographic areas should be covered under the Radiation Exposure Compensation Act (RECA) program. The Council shall provide semi-annual interim reports to HRSA including technical assistance provided, study findings, and recommendations. The final report will be completed and presented by HRSA to Congress by June 30, 2005.

With respect to the \$4,000,000 All Children's Hospital provision, the conferees clarify that the project is to be completed by September 30, 2005.

CENTERS FOR DISEASE CONTROL AND PREVENTION

DISEASE CONTROL, RESEARCH AND TRAINING

The conference agreement provides \$1,000,000 in supplemental funds for the Centers for Disease Control and Prevention. This is \$314,000,000 below the amount provided by the Senate and the same as provided by the House. Funds are provided as a contingent emergency appropriation.

The conference agreement includes \$1,000,000 to accelerate and expand work related to prion diseases, the same as provided by the House. The Senate bill included no funds for this purpose.

The conferees concur in language included in the House report concerning the inclusion of all relevant Centers in the development and implementation of the health-tracking network.

NATIONAL INSTITUTES OF HEALTH OFFICE OF THE DIRECTOR

The conferees endorse the report language included in the House report recommending that the Director allocate up to \$500,000 from the funding provided in this account in Public Law 107-116 for the Foundation for the National Institutes of Health (NIH). The Senate report did not include similar language.

BUILDINGS AND FACILITIES (INCLUDING RESCISSION)

The conference agreement includes a rescission of \$30,000,000, as proposed by the House and Senate, to be taken from the two sources identified in the House and Senate reports. The conference agreement also includes bill language to clarify the original intent of the conferees to provide in Public Law 107-116 \$36,600,000 within this account for the John Edward Porter Neuroscience Research Center, as requested by the Administration in justification materials accompanying the budget request. This funding would support both Phase I of the project and the design of Phase II.

The conference agreement does not include \$72,000,000 in emergency funding for NIH campus security enhancements as proposed in the Senate bill. The House bill did not include a similar provision.

CENTERS FOR MEDICARE AND MEDICAID SERVICES

PROGRAM MANAGEMENT

The conference agreement does not include the provision in the Senate bill specifying \$1,000,000 for the Johns Hopkins School of Medicine for a study of chest oscillation therapy for chronic obstructive pulmonary disease. Neither the Administration's request or the House bill included the provision.

The conferees agree to the House report language regarding the Medicare appeals process established by the Benefits Improvement and Protection Act of 2000 with the following modification. The requested report should address the costs of implementing the appeals process and the Department's plans for that implementation.

The conferees have been very pleased with the efforts of CMS under its demonstration authority to address the extraordinary adverse health status of Native Hawaiians in Waimanalo, Hawaii. The conferees urge an additional focus upon American Samoan residents in that geographical area utilizing the expertise of the Waimanalo Health Center and its Maui Ola Program.

ADMINISTRATION FOR CHILDREN AND FAMILIES CHILDREN AND FAMILIES SERVICES PROGRAMS

The conference agreement includes \$500,000 for the domestic violence hotline as proposed by the House. The Senate bill contained no similar provision. These funds are provided on an emergency contingent basis.

OFFICE OF THE SECRETARY PUBLIC HEALTH AND SOCIAL SERVICES EMERGENCY FUND

The Conference agreement includes \$90,000,000 within the Public Health and Social Services Emergency Fund for the CDC to support the protection, monitoring and study of the health of emergency services

personnel and rescue and recovery personnel exposed to environmental contaminants in the wake of the terrorist attacks of September 11, 2001 at the World Trade Center in New York City. This is the same amount as provided in the Senate bill. The House bill included no similar provision. These funds are provided on an emergency contingent basis.

The Conferees concur in the guidance included in the Senate report, with the further understanding that activities undertaken are to include clinical examination and evaluation as appropriate. The conferees request an implementation plan to be provided to both Committees within six months of the enactment of this Act, and annual reports thereafter on accomplishments, funds obligated, funds expended, and remaining balances.

DEPARTMENT OF EDUCATION

SCHOOL IMPROVEMENT PROGRAMS

The conference agreement includes language relating to the expenditure of funds for digital programming in the Ready to Teach program as proposed by the Senate. The House bill contained no similar language.

The conference agreement includes a technical correction relating to the amounts of funding available for the Fund for the Improvement of Education and the Cooperative Civic Education program as proposed by both the House and the Senate.

The conference agreement also includes technical corrections to various projects.

STUDENT FINANCIAL ASSISTANCE

The conference agreement includes \$1,000,000,000 to help relieve a shortfall in the Pell grant program and provides that these funds shall be available until September 30, 2003, as proposed by the House. The Senate bill provided \$1,000,000,000 for the same purpose but designated that amount as an emergency.

HIGHER EDUCATION

The conference agreement includes technical corrections to various projects as proposed by the House and the Senate.

EDUCATIONAL RESEARCH, STATISTICS, AND ASSESSMENT

The conference agreement includes a technical correction allowing the contract for the Eisenhower National Clearinghouse for Mathematics and Science Education to be continued for one additional year. The House bill contained no similar language.

GENERAL PROVISIONS

Section 801. The conference agreement includes a permanent change to section 8003 of the Elementary and Secondary Education Act of 1965, as amended, that modifies the number of students required in a portion of the payment formula for heavily impacted districts as proposed by the Senate. The House bill contained no similar provision.

Section 802. The conference agreement includes a permanent change to section 8003(b)(1) of the Elementary and Secondary Education Act of 1965, as amended, that modifies the provision on determining a school district's local contribution rate as proposed by the Senate. The House bill contained no similar provision.

Section 803. The conference agreement includes the \$45,000,000 rescission in administrative and related expenses in the Department of Labor, Health and Human Services, and Education included in the Senate bill, amended to remove the language requiring that the reduction be done on a pro-rata basis. The House bill contained no similar provision. Specific rescission amounts are to

be determined and distributed by the Office of Management and Budget. The conferees direct the Office of Management and Budget to distribute this administrative reduction in such a way that reductions-in-force and furloughs of departmental personnel do not occur.

Section 804. The conferees have included bill language from the Senate bill identifying the "National Research Service Awards" program as the "Ruth L. Kirschstein National Research Service Awards" program. This action is being taken to honor the career of Dr. Ruth L. Kirschstein. A native of Brooklyn, New York, Dr. Kirschstein received a B.A. degree magna cum laude in 1947 from Long Island University. In 1951, she received her M.D. from Tulane University School of Medicine.

From 1957 to 1972, Dr. Kirschstein performed research in experimental pathology at the Division of Biologics Standards (now the Center for Biologics Evaluation and Research, Food and Drug Administration). During that time, she helped develop and refine tests to assure the safety of viral vaccines for such diseases as polio, measles and rubella. Her work on polio led to the selection of the Sabin vaccine for public use.

Since 1974, Dr. Kirschstein has been serving in leadership positions at the National Institutes of Health (NIH). When she first began her service to NIH, she served as Director of the National Institute of General Medical Sciences. She held this position for 14 years. From 1990 to 1991, Dr. Kirschstein also served as Acting Associate Director of the NIH on research on women's health.

Dr. Kirschstein served as Acting Director of the National Institutes of Health between January 2000 and May 2002. Prior to that post, Dr. Kirschstein served as the Deputy Director between 1993 and 1999. Dr. Kirschstein has received many honors and awards, including the Presidential Meritorious Executive Rank Award, 1980; election of the Institute of Medicine, 1982; a doctor of science degree from Mr. Siani School of Medicine, 1984; the Presidential Distinguished Executive Rank Award, 1983; an honorary doctor of laws degree from Atlanta University, 1985; an honorary doctor of science degree from the Medical College of Ohio, 1986; an honorary doctor of humane letters from Long Island University, 1991; and election as a fellow of the American Academy of Arts and Sciences, 1992. In 2001, she received honorary degrees from Spelman College and from Georgetown University Medical School.

Dr. Kirschstein has been both a visionary and a leader during her service at NIH and has helped to make it the world's premier biomedical research agency. In particular, Dr. Kirschstein led the cutting edge of two of the most important research trends of this generation. She played a pivotal role in launching the Human Genome Project. She is also credited with providing early and crucial support to women's health studies, services and programs for the NIH and pioneering the NIH Office of Women's Health Research.

While serving as Acting Director of NIH, Dr. Kirschstein has worked with Congress to achieve a doubling of the NIH budget. Through her leadership, commitment, contributions and unselfish service to the biomedical research community and NIH, Dr. Kirschstein continues to serve her nation. The conferees believe the naming of the National Research Service Awards as the Ruth L. Kirschstein National Research Service Awards is a fitting tribute to her outstanding service to this country.

Section 805. The conference agreement includes a provision proposed by the Senate that exempts Alaska from section 166 of the Community Renewal Tax Relief Act of 2000. The House bill contained no similar provision.

Section 806. The conference agreement includes a provision proposed by the Senate to reallocate funds provided for a Labor project in the FY2001 bill. The House bill contained no similar provision.

Section 807. The conference agreement includes a provision allowing the Secretary of Education to transfer lapsing funds at the end of fiscal year 2002 to program administration in an amount not to exceed any reduction pursuant to section 803 of this Act, but not more than \$5,000,000. Neither the House nor Senate bills contained this provision.

The conference agreement does not include a permanent change to the Higher Education Amendments of 1998 regarding the Grants to States for Workplace and Community Transition Training for Incarcerated Youth Offenders program as proposed by the Senate. The House bill contained no similar provision.

The conference agreement does not include language specifying a new distribution of Title I funds within the New York City public school system as proposed by the Senate. The House bill contained no similar provision.

CHAPTER 9

LEGISLATIVE BRANCH

HOUSE OF REPRESENTATIVES

The conference agreement provides \$1,600,000 for Standing Committees, Special and Select for the Permanent Select Committee on Intelligence.

JOINT ITEMS

CAPITOL POLICE BOARD, GENERAL EXPENSES

The conference agreement provides \$16,100,000 for general expenses for the United States Capitol Police. Of this amount, \$12,500,000 is provided for reimbursement to the Environmental Protection Agency for anthrax investigations and cleanup to the Capitol Complex.

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SALARIES AND EXPENSES

The conference agreement provides an additional direct appropriation of \$7,500,000, as requested, to offset the decreased level of receipts resulting from months of mail suspension.

ADMINISTRATIVE PROVISIONS—THIS CHAPTER

Sec. 901. The conferees have included an administrative provision regarding Senators' Official Personnel and Office Expense Account.

Sec. 902 and Sec. 903. The conferees have included two provisions making a technical correction regarding a House item and a Senate item to P.L. 107-117.

Sec. 904. A provision has been included providing Economy Act authorization to the CAO of the House of Representatives.

Sec. 905. The conferees have included a provision authorizing the Architect of the Capitol to procure space for an alternate computer facility for the legislative branch.

Sec. 906. A provision has been included which establishes an account for the Architect of the Capitol to be titled "Capitol Police Buildings and Grounds."

Sec. 907. A provision has been included authorizing the Architect of the Capitol to acquire Property for the use of the Capitol Police.

CHAPTER 10

DEPARTMENT OF DEFENSE—MILITARY CONSTRUCTION

MILITARY CONSTRUCTION, AIR FORCE

The conference agreement includes \$7,250,000 for this account instead of \$8,505,000

as proposed by the House. The reduced amount is based on the Air Force's revised execution strategy for the projects provided in the House passed bill. The Senate did not have a similar provision. Included in the account are the following projects:

Location/Installation	Project title	Cost
Diego Garcia	Communications Switching Facility	\$3,450,000
Diego Garcia	Stuffing/Unstuffing Pad	3,200,000
Worldwide Various	Planning and Design	600,000
Total		7,250,000

These funds are designated as contingent emergency requirements.

MILITARY CONSTRUCTION, DEFENSE-WIDE

(INCLUDING TRANSFER OF FUNDS)

The conference agreement includes \$21,500,000 for this account as proposed by the House. The Senate did not include a similar provision. Of this amount, \$19,600,000 is provided for construction of a Joint Operations Complex at Fort Bragg, North Carolina. The remaining \$1,900,000 is provided for planning and design of the project.

These funds are designated a contingent emergency requirements.

GENERAL PROVISIONS—THIS CHAPTER

The conference agreement includes one general provision.

The conference agreement includes a provision, Section 1001, as proposed by the Senate, which allows funds made available in this Act to be used for military construction projects with a requirement to provide Congress a 15-day prior notification. The House did not include a similar provision.

DEPARTMENT OF TRANSPORTATION

OFFICE OF THE SECRETARY

SALARIES AND EXPENSES

TRANSPORTATION ADMINISTRATIVE SERVICE CENTER

(LIMITATION ON OBLIGATIONS)

The conference agreement increases the fiscal year 2002 obligation for the Transportation Administrative Service Center from \$116,023,000 to \$128,123,000 to accommodate additional security needs of the Department, as proposed by the House. The Senate bill also increased the limitation, but in a general provision. The conferees do not concur with language included in the Senate report on the simultaneous termination of visas and drivers' licenses.

TRANSPORTATION SECURITY ADMINISTRATION

(INCLUDING TRANSFER OF FUNDS)

The recommendation includes \$3,850,200,000 for activities of the Transportation Security Administration (TSA), instead of \$3,850,000,000 as proposed by the House and \$4,702,525,000 as proposed by the Senate. Of the total, the bill provides that \$480,200,000 is designated as a contingent emergency appropriation, and \$1,030,000,000 is to be transferred to the Federal Emergency Management Agency (FEMA) for reimbursement of "bridge loans" made to TSA out of Emergency Response Fund resources previously set-aside for FEMA activities in New York City. Funds are available until expended, as proposed by the Senate, instead of until September 30, 2003, as proposed by the House.

The conference agreement includes, and the bill specifies, additional funding for critically-needed transportation security improvements which were not included in the request, as follows:

Activity	Amount
Modifications of airports to install checked baggage explosive detection systems, including trace detection systems	\$225,000,000

Activity	Amount
Grants to port authorities and other entities for security enhancements and port incident training at U.S. ports	125,000,000
Procurement of air-ground communications systems for federal air marshals ..	15,000,000
Intercity bus security	15,000,000
Operation safe commerce ..	28,000,000
Airport terminal security ..	17,000,000
Radiation detection system test and evaluation	4,000,000
Security research and development and pilot projects	10,000,000

TSA reprogramming procedures.—The conferees are concerned that, including funds in this bill, \$6,200,000,000 is being provided to TSA in fiscal year 2002, with no reprogramming guidelines or clearly-defined programs, projects, and activities (PPAs) established or proposed by the administration. TSA's budget requests include a mixture of operating and capital expenses, which would normally involve separate appropriations with strict controls over transfers. In addition, TSA's budget information has sometimes been contradictory, and has not been submitted in a common format allowing useful budgetary comparisons or an appropriate level of detail to be used for reprogramming controls. Consequently, the conferees direct TSA to follow the existing reprogramming procedures for the Department of Transportation. These guidelines establish the following minimum thresholds for reporting proposed funding shifts to Congress:

Proposed actions involving funding shifts of more than 15 percent of new budget authority for the benefiting or providing PPA, or \$1,000,000, whichever is less; or

Proposed actions of any size that deviate from high priority Congressional interests and requirements, as reflected in report language and documented in DOT's annual Base for Reprogramming Actions.

To implement these procedures, a list of PPAs must be developed against which the reprogramming thresholds apply. To establish this, the conferees direct TSA to provide a fiscal year 2002 reprogramming baseline to the House and Senate Committees on Appropriations no later than August 9, 2002. This document shall serve as the baseline document for future reprogrammings, and shall include, at a minimum, the following PPAs: Third Party Screening Contracts, National Guard Costs, State and Local Law Enforcement Officers, Intelligence Office Costs; ACS Field Staff Salary and Benefits and Other Costs, ACS Research/IPT Staff Salary and Benefits and Other Costs, ACS Security Specialists Salary and Benefits and Other Costs, Explosive Detection Research and Development, Human Factors Research, Aircraft Hardening and Airport Security Technology Research, Other Research, Research Pilot and Demonstration Projects;

Frontline Passenger Screener Salary and Benefits and Other Costs, Supervisor Passenger Screener Salary and Benefits and Other Costs; Frontline Passenger Screener Salary and Benefits and Other Costs, Supervisor Passenger Screener Salary and Benefits and Other Costs; TSA Cargo Inspectors Salary and Benefits and Other Costs; Law Enforcement Officer Salary and Benefits; Law Enforcement Officer Other Costs, Law Enforcement Supervisor Salary and Benefits, Law Enforcement Supervisor Other Costs;

Federal Air Marshal Salary and Benefits, Federal Air Marshal Other Costs, Federal Air

Marshal Supervisor Salary and Benefits, Federal Air Marshal Supervisor Other Costs; Federal Security Director Salaries and Benefits and Other Costs, Airport Management and Staff Salaries and Benefits, Airport Management and Staff Other Costs, Headquarters Salary and Benefits, Headquarters Other Costs;

Passenger Screener Hiring Contracts, Passenger Screener Training Contracts, Baggage Screener Hiring Contracts, Baggage Screener Training Contracts; and

EDS/ETD Site Survey, EDS Integrator, Next Generation EDS, CAPPS-II Data Integration, Maintenance for Leased Screening, Start-Up and Administrative Support, Planning and Deployment, Equipment Implementation, EDS Purchase, EDS Installation, ETD Purchase, ETD Installation, Checkpoint Equipment, Equipment Maintenance, Information Technology Projects, Time and Attendance and Property Inventory Systems, Credentialing Project.

TSA performance goals and performance reporting.—The Senate directed TSA to publish, on its website, monthly statistics for each airport regarding compliance with the ten minute wait time goal. Rather than reporting on a single goal, the conferees agree that TSA should track and publish information on a wide variety of goals, so this new agency's growth and overall performance can be closely monitored by the Congress, taxpayers, and the traveling public. Therefore, the conferees direct TSA, as soon as possible, to begin reporting on the wait time goals on its website as proposed by the Senate. The conferees also direct that TSA begin reporting on its website, or under separate cover to the Congress as security concerns dictate, monthly performance information for each of the following measures:

Percent of commercial airports with permanent federal security directors on the job;

Percent of airports with TSA conducting passenger and baggage screening;

Percent of required EDS and ETD systems deployed;

Percent of airports utilizing the CAPPS II system;

Percent of commercial aircraft with phase II cockpit doors installed;

Average wait time at passenger screening checkpoint for federalized airports;

Number of complaints per 1,000 passengers for federalized airports;

Security cost per originating passenger for federalized airports; and

Percent of major ports with port vulnerability assessments completed.

Where applicable, this information should be presented on an airport-by-airport or airline-by-airline basis, and the TSA should include in its reports the specific information on the wait time goal proposed by the Senate. While the conferees acknowledge that appropriate goals for TSA will change after the agency's start-up period, it is critical to begin developing a baseline of performance information against which future budget requests may be evaluated and management oversight directed.

Status reports on hiring and salary costs.—The Aviation and Transportation Security Act provided TSA with broad flexibility to set pay rates for its employees outside the federal general schedule. While this provision was intended to allow the agency flexibility in establishing its workforce, the conferees are concerned that some positions are being hired at rates, which are above those for similar positions in other federal agencies. To monitor these expenses, TSA is directed to begin submitting to the House and Senate Committees on Appropriations, on a monthly basis, a report on the number of employees the agency has on board for each of the agency's job series. This report should

include, at a minimum: (1) a description of each job series; (2) the number of individuals employed in each job series; (3) the total annual salary cost, average and median salary costs, and standard deviation for salary distributions for each job series; and (4) the degree to which the agency has fulfilled the diversity goals as articulated by the Under Secretary in testimony. Every two months, the report should include a comparison of average salary costs and the percentage change for each job series during the two month period. It is expected that the same data will be provided regarding federal air marshals, even if such data is transmitted separately due to security considerations.

Contract oversight.—TSA is currently budgeting over \$3,000,000,000 for start-up contract costs in fiscal year 2002. These include contracts for recruiting, hiring, and training TSA's workforce; purchasing and deploying equipment; and administrative support. Given that TSA is exempt from most federal acquisition requirements and is undergoing rapid growth, the conferees are concerned that contracts may be let and managed without sufficient internal controls to monitor contractor performance and guard against waste, fraud, and abuse. Accordingly, the conferees direct that, for each contract the agency enters into, TSA shall set aside one percent of the total contract costs for contract oversight activities. These activities should include, but are not limited to: (1) overseeing contractor and subcontractor performance with respect to cost, schedule, and quality; (2) monitoring billings; (3) providing for independent cost audits by the Defense Contract Audit Agency; and (4) overseeing the volume of undefinitized contract actions and the timely definitization of contracts. TSA is directed to report to the House and Senate Committees on Appropriations at the beginning of each fiscal quarter on the number and dollar amount of all contracts let, including task orders placed under existing contracts, the dollars allocated for contract oversight and the nature of oversight activities undertaken. At the time this information is submitted to Congress, TSA should also provide such information to the Department of Transportation Inspector General for his review and analysis. At the request of the Committees on Appropriations, the Inspector General has been conducting a review of TSA's budget and financial management. Because this information has been useful in determining appropriate funding levels for TSA, the IG is directed to continue its efforts and report to the Appropriations Committees as necessary.

Veteran's preference in hiring.—Within the next two months, TSA plans to hire over 40,000 people. The Aviation and Transportation Security Act requires that "the Under Secretary shall provide a preference for the hiring of an individual as a security screener if the individual is a member or a former member of the armed forces". The conferees are concerned that with the initial TSA screener hiring, veterans who "passed" the TSA test were offered jobs 83% of the time, while non-veterans who "passed" the TSA test were offered jobs 88% of the time. The conferees direct the Inspector General to review TSA's implementation of the veterans preference requirement and submit a report to the House and Senate Committees on Appropriations by August 31, 2002.

DOT credentialing project.—Recently the Transportation Security Administration announced the establishment of the DOT credentialing project. This project's major goal is the development and provision of a standardized transportation worker identification card (TWIC) for all personnel—government, commercial, non-profit and others—requiring access to secure facilities in

any mode of transportation nationwide. TSA's view is that such a system must include a single type of card with access to a single, secure network of databases. This project is much larger in scope than envisioned at the time the fiscal year 2003 budget request was submitted. The conferees have several concerns with this project as currently proposed:

TSA appears to have selected a particular type of identification card, with inadequate justification or consultation with Congress or affected industries concerning the cost or requirements.

Security vulnerabilities of the system have not been adequately explained;

TSA has not explained the program's costs or how such a large effort, spanning several industries, will be financed; and

The agency has provided no details on how much funding is included in the fiscal year 2002 or 2003 budgets for this effort or details on anticipated pilot projects at airports.

Given the inadequate planning and consultation on this effort, the conferees direct TSA not to obligate further funding for this effort except through existing reprogramming procedures which require written notification to the Congress and approval of the expenditure. The conferees will work with TSA in development of the fiscal year 2003 Department of Transportation and Related Agencies Appropriations Act to resolve these issues.

Airport modifications to install explosive detection systems.—The conferees have provided a total of \$738,000,000 for the costs of the physical modification of commercial service airports for the purpose of installing explosive detection systems. The amount provided is \$225,000,000 more than the level requested by the Administration. The conferees note that a number of airports, including Seattle-Tacoma International Airport, are in the process of constructing new terminal facilities at precisely the same time that the new explosive detection systems must be installed. In the case of the South Terminal Expansion Project (STEP) at Seattle-Tacoma International Airport, the sudden requirement to install explosive detection systems has triggered dramatic cost increases in the project due to the requirement to redesign and reconfigure the terminal in mid-construction. As such, the conferees direct that, in allocating the resources provided over and above the Administration's request for EDS installation, the Under Secretary be attentive to the needs of the South Terminal Expansion Project and other airport projects in a similar circumstance. The conferees understand that Anchorage International Airport and Kansas City International Airport may be in similar circumstances.

Radiation detection system test and evaluation.—The conferees are aware of emerging technologies designed to detect the illicit trafficking of radioactive material. U.S. and international agencies are currently utilizing portable radiation search tools (PRST) for these purposes, and the conferees believe this technology holds great promise in protecting our nation's ports and waterways. The conference agreement includes \$4,000,000 to the Transportation Security Administration, in coordination with the Coast Guard and the Department of Energy, for testing, evaluation, and procurement of PRST to determine the viability of this technology in providing effective detection of this specific nuclear threat.

Threat image projection x-ray systems.—The conferees continue to support x-ray training systems known as "threat image projection" (TIP) systems, which have already been deployed at major airports. TSA has recognized that TIP-ready x-ray screening systems can significantly strengthen checkpoint security

by enhancing screener performance, through continuous analysis and training. The conferees encourage TSA to continue the acquisition and deployment of TIP-ready x-ray systems at all commercial service airports.

Port security grants.—The conference agreement includes \$125,000,000 for port security grants, instead of \$75,000,000 as proposed by the House and \$200,000,000 as proposed by the Senate. The bill specifies that \$20,000,000 is provided to develop and conduct emergency incident response training and exercises at ports. The conferees do not agree with the Senate's proposal to limit grant awards to applications already submitted. Instead, the conference agreement assumes that grants will be awarded in as wise and expeditious a manner as possible, using merit-based criteria.

Pulsed Fast Neutron Analysis (PFNA).—The conferees believe that the Pulsed Fast Neutron Analysis technology shows extraordinary promise as a higher speed alternative to existing technologies for detecting explosives and other contraband in checked baggage. The conferees direct the Under Secretary to use funds provided for security research and development and pilot projects to demonstrate and test the efficacy of the PFNA technology for this application in the field.

Biometrics.—The conferees expect the Under Secretary to use funds provided for security research and development and pilot projects to demonstrate the use of biometric technology to improve security.

Reconciliation of aviation security costs and responsibilities.—The conferees direct that final report of the Under Secretary and the DOT General Counsel regarding aviation security costs and responsibilities be submitted to the House and Senate Committees on Appropriations no later than August 15, 2002.

U.S. COAST GUARD

OPERATING EXPENSES

The conference agreement includes \$200,000,000, to be available until September 20, 2003, instead of \$210,000,000 as proposed by the House and \$318,400,000 as proposed by the Senate. Of the total, \$11,000,000 is designated as a contingency emergency appropriation. Increases above the requested amount are as follows:

Activity	Amount
Maintain reserves	\$4,000,000
Port vulnerability assessments	6,000,000
PACAREA ship refueling capability	1,000,000

Pacific Area ship refueling capability.—The conferees concur in the House proposal to provide \$1,000,000 to address at-sea refueling needs for drug interdiction activities in the Eastern Pacific. These funds are specifically to be under the control of the Commander, Joint Interagency Task Force (JIATF)—East for the immediate procurement of at-sea refueling capability to extend the range and endurance of drug interdiction assets in that region.

ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

The conference agreement includes \$328,000,000 instead of \$78,000,000 as proposed by the House and \$347,700,000 as proposed by the Senate. Funds are available until September 30, 2004, as proposed by the Senate. Of the total, \$262,000,000 is designated as a contingent emergency appropriation. The conference agreement includes the following funding:

Vessels:	
Boarding and escort patrol boats (CPBs)	\$36,000,000

87 foot coastal patrol boat small boat replacement	2,100,000
Subtotal	38,100,000
Aircraft: Priority initiatives	200,000,000
Other equipment:	
Ports and waterways safety systems	22,929,000
Cutter defense messaging system replacement	4,800,000
Subtotal	27,729,000
Shore facilities:	
Homeland security shore infrastructure support Station Oak Island, NC fire damage repair/re-build	8,171,000
Priority initiatives	4,000,000
Subtotal	50,000,000
Subtotal	62,171,000

Boarding and escort patrol boats.—The bill includes \$36,000,000 for procurement of additional 87-foot Barracuda class coastal patrol boats. Along with the 110-foot Island class, these boats are the backbone of Coast Guard's homeland defense in our ports, waterways, and territorial waters. The conferees believe these additional homeland security assets are needed as a top priority.

Ports and waterways safety systems.—The conference agreement includes \$22,929,000 to upgrade the port surveillance and vessel tracking capability in the high-value ports of New York, New York; Houston-Galveston, Texas; and Port Arthur, Texas.

Priority initiatives.—The conference agreement includes \$250,000,000 for critical acquisition, construction, and improvement activities, including \$200,000,000 for aircraft and \$50,000,000 for shore facilities. The conferees direct that none of these funds may be obligated until submission of a report to the House and Senate Committees on Appropriations on the specific line items and activities to be funded and the rationale for each proposed expenditure.

FEDERAL AVIATION ADMINISTRATION OPERATIONS

The conference agreement includes \$42,000,000 instead of \$100,000,000 as proposed by the Senate. Funds are designated as a contingent emergency appropriation. The House bill included no similar appropriation. In addition, the conferees agree to language allowing the FAA to transfer up to \$33,000,000 from unobligated balances of "Facilities and equipment" to this appropriation, instead of \$25,000,000 as proposed by the House. The conferees believe the combined resources of \$75,000,000 provide herein will accommodate the agency's highest priority operating needs for the balance of fiscal year 2002, including payroll and overtime costs for air traffic controllers and space rental requirements. These accounts were depleted earlier this year to address unbudgeted security initiatives. This transfer shall be subject to the Congressional reprogramming procedures.

Controller shortage, Newark International Airport.—The conferees agree to direct FAA to submit the report on air traffic controller shortages at Newark International Airport as included in section 1007 of the Senate bill. As specified in that section, the report is due thirty days after enactment of this Act. The Administrator shall submit such report to the House and Senate Committees on Appropriations and the authorizing committees of jurisdiction.

FACILITIES AND EQUIPMENT (AIRPORT AND AIRWAY TRUST FUND)

The conference agreement includes \$7,500,000 instead of \$15,000,000 as proposed by

the Senate. These funds are designated as a contingent emergency, and are for rehabilitation of ARSR-4 long range radar systems, which are being kept in service due to security concerns since the terrorist attacks of September 11, 2001. The House bill included no similar appropriation.

GRANTS-IN-AID FOR AIRPORTS (AIRPORT AND AIRWAY TRUST FUND)

The conference agreement includes \$150,000,000, instead of \$200,000,000 as proposed by the House and \$100,000,000 as proposed by the Senate. These funds are to enable the Administrator to compensate airports for a portion of the direct costs associated with new, additional or revised security requirements imposed on airport operators by the Administrator on or after September 11, 2001. The conferees agree with direction of the Senate regarding the distribution of these funds. Funds are to be derived from the airport and airway trust fund as proposed by the Senate, instead of from the general fund as proposed by the House, and are designated as a contingent emergency appropriation.

FEDERAL HIGHWAY ADMINISTRATION FEDERAL-AID HIGHWAYS EMERGENCY RELIEF PROGRAM (HIGHWAY TRUST FUND)

As proposed by both the House and the Senate, the conference agreement included \$167,000,000 from the highway trust fund to fully fund the restoration and reconstruction of Federal-aid highways-eligible state and local roads in New York City damaged by the September 11th terrorist attacks. It also waives the local match for these funds and exempts these projects from the \$100,000,000 per-disaster cap in emergency relief funding.

The conference agreement also includes \$98,000,000, designated as a contingent emergency appropriation from the highway trust fund, for nationwide needs of the emergency relief program instead of \$120,000,000 as proposed by the Senate. The House provided no similar appropriation. This funding level fully satisfies FHWA's estimates of emergency relief needs, as of June 11, 2002, for states and territories, as shown in the table below. In addition, the estimates include \$12,000,000 for repair of the I-40 Bridge in Oklahoma. The conferees expect emergency relief amounts needed for federal land highway management agencies will be addressed in the \$100,000,000 authorization that will be available on October 1, 2002.

State/territory	Emergency Relief Needs Estimate
Alabama	\$1,871,000
American Samoa	1,278,000
Arizona	1,066,000
Arkansas	13,950,000
Colorado	2,530,000
Guam	672,000
Minnesota	678,000
Missouri	2,475,000
New Jersey	11,704,000
New York	309,000
North Dakota	12,470,000
Ohio	2,551,000
Oklahoma	13,415,000
Oregon	399,000
Pennsylvania	1,138,000
Puerto Rico	1,315,000
South Dakota	717,000
Texas	12,813,000
Virginia	684,000
Washington	13,411,000
West Virginia	2,357,000

FEDERAL-AID HIGHWAYS (HIGHWAY TRUST FUND)

(RESCISSION OF CONTRACT AUTHORIZATION)

The conference agreement includes a rescission of \$320,000,000 in unspent contract

authority available to the states under the five core formula highway programs as proposed by the Senate. The House included no such rescission. This rescission will have no impact on fiscal year 2002 highway construction activities, because such funds are above annual limitations on obligations and are therefore not available for obligation during fiscal year 2002.

FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION

BORDER ENFORCEMENT PROGRAM (HIGHWAY TRUST FUND)

The conference agreement includes \$19,300,000 for the new border enforcement program within the Federal Motor Carrier Safety Administration, as proposed by both the House and Senate. Of the amount provided, \$4,200,000 is to fund the implementation of section 1012 of the USA PATRIOT Act, which includes up to 34 additional federal personnel; \$8,000,000 is for driver's license fraud detection and prevention projects, including \$800,000 for a contract effort to develop a unique identifier for commercial drivers' licenses; \$2,000,000 is to develop a hazardous material security and education outreach program and to conduct a northern border safety and security study; and \$5,100,000 is for coordinating state drivers' license registration and social security number verification.

Consistent with both House and Senate language, the conferees direct the Texas Department of Transportation to consult with the City of Laredo and consider their concerns regarding site selection for a cross-border inspection facility. The conferees reinforce that federal safety requirements must be met in any site selection decision. The conferees also agree with language proposed by the Senate that under no circumstances should the FMCSA approve a site for such an inspection facility if the location compromises the ability to enforce all statutory and regulatory safety requirements, including those enacted as part of the Department of Transportation and Related Agencies Appropriations Act, 2002.

HAZARDOUS MATERIALS SAFETY PERMITS (Highway Trust Fund)

As proposed by the House, the conference agreement includes \$5,000,000 from the highway trust fund to implement the permit program required by law for those motor carriers transporting the most dangerous hazardous materials. The Senate included no such appropriation. Funds are designated as a contingent emergency appropriation. The conferees extended the implementation date of the permit program to December 1, 2002. The conferees also expect the Research and Special Programs Administration to share data on hazardous materials registrations with the Federal Motor Carrier Safety Administration on a monthly basis.

The conferees are aware of several commercially-available technologies that could potentially enhance the security of hazardous materials transportation. FMCSA, FHWA, and DOT's Intelligent Transportation Systems Joint Program Office are conducting operational tests of technology to prevent unauthorized drivers from operating a vehicle, systems for detecting a vehicle that is off-route, and systems to remotely shut off the vehicle engine. The conferees direct FMCSA to submit a report to the House and Senate Committees on Appropriations no later than December 1, 2002 that evaluates the potential of these technologies.

FEDERAL RAILROAD ADMINISTRATION GRANTS TO THE NATIONAL RAILROAD PASSENGER CORPORATION

The conference agreement includes \$205,000,000 for operating assistance to the

National Railroad Passenger Corporation (Amtrak) instead of the \$55,000,000 as proposed by the Senate. The House bill contained no similar appropriation. These are for necessary expenses to operate the railroad through the remainder of this fiscal year. On June 28, 2002, Amtrak entered into an agreement with the Department of Transportation through which Amtrak received a direct loan of \$100,000,000, which the agreement contemplates will be repaid by Amtrak's fiscal year 2003 appropriation. As part of that agreement, Amtrak agreed to provide the DOT with certain operational and financial data. Such data includes: All revenue and expenses associated with rail operations by route; budgeted and actual expenditures for all capital investments; monthly performance reports; a report on Amtrak's operating relationships with commuter rail systems; and an inventory and valuation of Amtrak's assets as well as a timetable for obtaining an updated valuation of those assets.

The conferees expect Amtrak to transmit this information to the House and Senate Committees on Appropriations at the same time as it is transmitted to the Department of Transportation.

The agreement between Amtrak and DOT also calls on Amtrak's management to present to Amtrak's Board of Directors a prioritized list of expense reduction options totaling at least \$100,000,000 for fiscal year 2003—expense reductions that the Board of Directors must apply to critical maintenance needs throughout the Amtrak system. The conferees direct that this list of expense reductions, as well as a list of such critical maintenance projects, be provided to the House and Senate Committees on Appropriations no later than August 31, 2002—the date stipulated in the Amtrak-DOT agreement.

FEDERAL TRANSIT ADMINISTRATION CAPITAL INVESTMENT GRANTS

As proposed by both the House and Senate, the conference agreement provides \$1,800,000,000 in capital investment grants to replace, rebuild, or enhance mass transportation systems serving the Borough of Manhattan, New York City, New York.

RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION

RESEARCH AND SPECIAL PROGRAMS

The conference agreement includes no funding to relocate and upgrade the Department's crisis management center into a new transportation information operations center (TIOC), instead of \$2,100,000 proposed by the House under the Transportation Security Administration and \$3,500,000 proposed by the Senate. Because of the recent announcement to establish a new, cabinet-level Department of Homeland Security, and the possible transfer of TSA and the Coast Guard to that department, the conferees have deferred funding for this item pending a final determination regarding DOT's restructured role in security and crisis management.

GENERAL PROVISIONS—THIS CHAPTER

The conference agreement amends the House provision that makes certain projects and activities contained in the fiscal year 2002 Department of Transportation and Related Agencies Appropriations Act eligible to receive fiscal year 2002 funds. The amendment expands the provision to include activities of the Job Access and Reverse Commute program. The Senate proposed no similar provision.

The conference agreement includes language proposed by the Senate, instead of language proposed by the House, regarding TSA's payment for rental space at airports.

The conference includes language proposed by the Senate regarding the calculation of tonnage for shipbuilding purposes. The House bill contained no similar provision.

The conference agreement includes the Senate provision clarifying the alignment of a highway project in Mississippi made eligible for enhancement funding in the fiscal year 2001 Department of Transportation and Related Agencies Appropriations Act. The House proposed no similar provision.

The conference agreement includes the Senate provision that redirects \$2,750,000 in previously appropriated intelligent transportation system program funds to the Drexel University Intelligent Infrastructure Institute for purposes authorized in the Transportation Equity Act for the 21st Century. The House proposed no similar provision.

In addition to the location correction for the I-74 Mississippi River Bridge project in Illinois proposed by the House, the conferees include a location correction for another project contained in the conference agreement accompanying the fiscal year 2002 Department of Transportation and Related Agencies Appropriations Act. The designation "GSB-88 Emulsified binder treatment research, Alabama", under the transportation and community and system preservation pilot program, should read "GSB-88 Emulsified binder treatment research, Tennessee".

CHAPTER 12

DEPARTMENT OF THE TREASURY FEDERAL LAW ENFORCEMENT TRAINING CENTER

SALARIES AND EXPENSES

The conferees agree to provide \$15,870,000 as proposed by the House.

FINANCIAL MANAGEMENT SERVICE

SALARIES AND EXPENSES

(RESCISSION)

The conferees agree to rescind \$14,000,000 of Public Law 107-20 as proposed by the House in section 1201 of the House bill instead of \$14,000,000 of Public Law 107-67 as proposed by the Senate. The conferees have no objection to any remaining unobligated balances from Public Law 107-20 being used for computer security.

UNITED STATES CUSTOMS SERVICE

SALARIES AND EXPENSES

The conferees agree to provide \$39,000,000 instead of no funding as proposed by the House and \$59,000,000 as proposed by the Senate. This funding is provided for startup costs, including staffing and technology, for the Container Security Initiative (CSI). The conferees did not include funding, as proposed by the Senate, for monitoring and investigating importation of products made with forced labor, nor did they include a provision proposed by the Senate authorizing the Customs Service to reimburse State and local law enforcement agencies for assistance along the Northern Border.

PRISON LABOR

The conferees note that the United States Customs Service has the responsibility for monitoring and investigating the importation into the United States of products made with forced labor, the importation of which violates section 307 of the Tariff Act of 1930 or section 1761 of title 18, United States Code.

The manufacture of goods made using prison, forced, or indentured labor continues to be an unfair trading practice used by a large number of countries despite the long-standing prohibition on importation of these goods into the United States. The use of forced labor by other countries hurts fair-trading U.S. businesses and defrauds U.S. consumers. The conferees are particularly concerned about countries that refuse to enforce their own laws that prohibit the exportation of forced labor-made goods to the

United States, and those countries, such as China, that have not fulfilled their obligations under existing bilateral agreements with the United States pertaining to the inspection of suspected forced labor facilities by appropriate U.S. officials.

The conferees strongly urge the Customs Service to require importers to provide certification to establish that goods entering U.S. ports were made by legitimate foreign companies that do not use prison, forced, or indentured labor. Furthermore, the conferees strongly urge the Customs Service to use fully its authority to block the importation of goods that are suspected to have been made using forced labor, especially in cases in which the United States has requested of a foreign country an inspection of a specific factory or other facility, but the requested inspection has not taken place in a timely manner.

INTERNAL REVENUE SERVICE

INFORMATION SYSTEMS

(RESCISSION)

The conferees agree to rescind \$10,000,000 as proposed by the Senate instead of no rescission as proposed by the House.

INTERNAL REVENUE SERVICE

BUSINESS SYSTEMS MODERNIZATION

The conferees agree to provide \$14,000,000 as proposed by the House in section 1201 of the House bill instead of no rescission as proposed by the Senate.

UNITED STATES SECRET SERVICE

SALARIES AND EXPENSES

The conferees agree to provide \$28,530,000 instead of \$46,750,000 as proposed by the House and \$17,200,000 as proposed by the Senate. The funding includes \$17,224,000 to fund the costs of establishing and expanding electronic crimes task forces, as authorized under the USA PATRIOT Act of 2001, \$7,491,000 for 51 positions required for additional protective details pursuant to Executive Order, and \$3,815,000 in support of the workforce stabilization and retention initiative.

POSTAL SERVICE

PAYMENT TO THE POSTAL SERVICE FUND

The conferees agree to provide \$87,000,000 for emergency expenses of the Postal Service as proposed by both the House and Senate.

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF ADMINISTRATION

The conferees agree to provide \$3,800,000 for emergency expenses of the Office of Administration, instead of \$5,000,000 as proposed by the Senate and no funding as proposed by the House. The conferees have denied funding for additional space requirements, travel support and support staff. The conferees agree not to include a provision, as proposed by the Senate, that funds provided to the Office of Administration may not be obligated until the Senate confirms a Director for Homeland Security.

OFFICE OF MANAGEMENT AND BUDGET

(RESCISSION)

The conferees agree to rescind \$100,000, instead of \$750,000 as proposed by the House and no rescission as proposed by the Senate.

ELECTION ADMINISTRATION REFORM AND RELATED EXPENSES

The conferees agree to provide \$400,000,000 for election administration reform, instead of \$450,000,000 as proposed by the House and the Senate. The conferees agree make these funds available to the appropriate Federal entities upon enactment of legislation for election administration reform; these funds are provided to the Office of Management and Budget, as proposed by House, and with

technical modifications, instead of being provided to the Office of Justice Programs, as proposed by the Senate.

FEDERAL ELECTION COMMISSION
SALARIES AND EXPENSES

The conferees agree to provide \$750,000 as proposed by the House instead of no funding as proposed by the Senate.

INDEPENDENT AGENCIES
GENERAL SERVICES ADMINISTRATION
FEDERAL BUILDINGS FUND

The conferees agree to provide \$21,800,000 instead of \$51,800,000 as proposed by both the House and the Senate.

GENERAL SERVICES ADMINISTRATION
POLICY AND OPERATIONS

The conferees agree to provide no funding as proposed by the House instead of \$2,500,000 as proposed by the Senate.

GENERAL PROVISIONS, THIS CHAPTER

Section 1201. The conferees agree to include a provision prohibiting the use of funds to transfer the functions, missions, or activities of the United States Customs Service to the Department of Justice.

Section 1202. The conferees agree to include a provision granting the Federal Law Enforcement Training Center the authority to hire federal retirees for a period of up to five years.

Section 1203. The conferees agree to include a provision deeming the Eisenhower Exchange Fellowship Program to be an executive agency for certain purposes, modified from Section 1101 of the Senate to make the provision permanent.

The conferees agree not to include a provision related to Alaska Mail Delivery; this provision is included as a new Title in this Act.

The conferees agree not to include a provision establishing the position of Director of Homeland Security, as proposed by the Senate.

The conferees agree not to include Section 1201 as proposed by the House regarding a rescission of funds from the Financial Management Service and an appropriation of funds to the Internal Revenue Service.

CHAPTER 13

DEPARTMENT OF VETERANS AFFAIRS

VETERANS BENEFITS ADMINISTRATION
COMPENSATION AND PENSIONS

The conferees have provided \$1,100,000,000 for compensation and pensions as proposed by the Senate. The House did not include funding for this account.

VETERANS HEALTH ADMINISTRATION
MEDICAL CARE

The conferees have provided \$417,000,000 for medical care as proposed by the House and the Senate.

The conferees have included language proposed by the House directing VA to distribute all of the funds to the VISNs according to VERA and directing the Centers for Medicare and Medicaid Services (CMS) to issue each VA health care facility a provider number, which in no way obligates CMS to reimburse VA for services. The Senate made no similar provisions.

The conferees reiterate report language proposed by the House prohibiting the funds to be used for any purpose other than direct health care services for priority 1-6 veterans and language proposed by the Senate directing the Secretary to report to the Committees on Appropriations on measures taken to ensure accurate workload and resource needs estimates in future budget justifications.

DEPARTMENT OF HOUSING AND URBAN
DEVELOPMENT

PUBLIC AND INDIAN HOUSING
HOUSING CERTIFICATE FUND
(RESCISSION)

The conference agreement rescinds \$388,500,000 from unobligated balances remaining available in the House Certificate Fund, instead of \$300,000,000 as proposed in the House and Senate bills. Modified language is included, similar to language proposed by the House, allowing the Department to apply the rescission against the Section 8 program or any other program in the Department, instead of limiting the rescission to only the Section 8 program as proposed in the Senate bill. The conference agreement does not include language proposed by the House bill prohibiting the rescission of any funds governed by statutory reallocation provisions, but instead includes language to allow the rescission to be applied against any program. Should the amounts available in the Section 8 program be insufficient to meet the required rescission, the Department is directed to notify the Committee of its plan to meet the rescission target, with such notification being provided at least seven days prior to implementation of the rescission.

COMMUNITY PLANNING AND DEVELOPMENT
COMMUNITY DEVELOPMENT FUND

The conference agreement includes an emergency appropriation of \$783,000,000 for assistance to properties and businesses, including restoration of damaged infrastructure, and for economic revitalization activities in the areas of New York City affected by the September 11, 2001 terrorist attacks, instead of \$750,000,000 as proposed by the House and Senate.

The conferees recognize the tremendous human losses suffered by those businesses located in the World Trade Center, particularly those firms which suffered the greatest loss of life in the attacks. Because of the conferees' strong desire to support the redevelopment of the areas of New York City affected by the attacks and to encourage those businesses most devastated by the attacks to remain in New York City, the conferees have provided a \$33,000,000 increase over the request. The conferees expect that these additional funds will be made available to assist those firms located in New York City at the time of the terrorist attacks which suffered a disproportionate loss of its workforce and who intend to re-establish their operations in New York City.

The conferees concur with the language included in the House report encouraging the Lower Manhattan Development Corporation to consider the needs of utility companies and other institutions affected by the World Trade Center attacks.

The conference agreement includes modified language, similar to language proposed by the House and Senate, making technical corrections to specific grants funded in prior appropriations Acts.

HOME INVESTMENT PARTNERSHIPS PROGRAM
(RESCISSION)

The conference agreement rescinds \$50,000,000 from fiscal year 2002 funds made available contingent upon enactment of an authorization, as proposed by the Senate. The House did not include a similar rescission.

HOUSING PROGRAMS
RENTAL HOUSING ASSISTANCE
(RESCISSION)

The conference agreement rescinds \$300,000,000 from contract authority in excess of amounts required to subsidize mortgage

payments pursuant to section 236 of the National Housing Act, as proposed by the House.

Language proposed by the Senate is not included directing the Department to use the excess contract authority to implement a rehabilitation grant program. The House did not include a similar provision.

INDEPENDENT AGENCIES
DEPARTMENT OF HEALTH AND HUMAN
SERVICES

NATIONAL INSTITUTES OF HEALTH
NATIONAL INSTITUTE OF ENVIRONMENTAL
HEALTH SCIENCES

The conferees have provided \$8,000,000 to undertake and continue research and worker training programs related to the September 11, 2001 terrorist attacks as proposed by the House. Of this amount, the conferees agree that \$4,000,000 is available for the research program and \$4,000,000 is available for worker training.

AGENCY FOR TOXIC SUBSTANCES AND DISEASE
REGISTRY

TOXIC SUBSTANCES AND ENVIRONMENTAL
PUBLIC HEALTH

The conferees have provided \$11,300,000 for direct and indirect costs of the Agency associated with the terrorist attacks of September 11, 2001 as well as for further efforts of the Agency to respond to chemical terrorism events, as proposed by the House. Of this amount, the conferees agree that \$1,800,000 is to reimbursement ATSDR for additional direct and indirect costs related to the events of September 11, 2001 which were not assumed in the fiscal year 2002 appropriation.

The conferees further agree that \$9,500,000 is expected to be used to enhance the capacity of the States to respond to chemical terrorism events. In this regard, the conferees note that these and similar expenses are expected to be "one time only" costs of the Agency to assist the States and are not to become recurring costs in support of new State personnel.

ENVIRONMENTAL PROTECTION AGENCY
SCIENCE AND TECHNOLOGY

The conference agreement provides \$50,000,000 to perform security vulnerability assessments of small and medium sized drinking water systems instead of \$100,000,000 as proposed by the Senate and no funds as proposed by the House.

ENVIRONMENTAL PROGRAMS AND MANAGEMENT
(TRANSFER OF FUNDS)

The conferees have included language which transfers \$400,000 appropriate in fiscal year 2002 from the Environmental Programs and Management account to the State and Tribal Assistance Grants account for wastewater and sewer infrastructure improvements in the Town of Rosman, North Carolina.

HAZARDOUS SUBSTANCE SUPERFUND

The conferees have included \$12,500,000 for reimbursement to the Environmental Protection Agency for costs associated with the investigation and cleanup of Anthrax within the United States Capitol and Congressional building complex and the Legislative Branch appropriations in this legislation as proposed by the House instead of providing this reimbursement directly to the EPA as proposed by the Senate.

STATE AND TRIBAL ASSISTANCE GRANTS

The conferees have included bill language making technical corrections to seven specific grants provided in fiscal years 2001 and 2002 instead of five such corrections as proposed by the House and one such correction as proposed by the Senate.

FEDERAL EMERGENCY MANAGEMENT AGENCY DISASTER RELIEF

The conferees have agreed to provide \$2,650,700,000 in emergency funding for disaster relief, instead of \$2,750,000,000 as proposed by the House and \$2,660,000,000 as proposed by the Senate. The amount appropriated includes a reduction of \$99,300,000 from the original supplemental request. The conferees have also agreed to retain the House Language that provides for the funds to be used to carry out the Federal Fire Prevention and Control Act of 1975. Additionally, the conferees agree to include language proposed by the Senate which will establish criteria for the Mortgage and Rental Assistance Program for victims of September 11, 2001 and directs compensation for applicants who had previously been denied benefits. The conference agreement does not include House language with regard to the Texas Medical Center.

For the purposes of the September 11, 2001 attack on the World Trade Center, measures taken by eligible private non-profit colleges and universities to protect the health and safety of students and faculty residing in areas affected by the disaster will be eligible for reimbursement.

The conferees agree that FEMA is directed to provide compensation to the New York City School system for costs stemming from the September 11, 2001 terrorist attacks for activities including additional classroom instruction time, mental health, trauma counseling, and other support services; guidance and grief counseling; clean-up and structural inspections and repairs of school facilities; and student relocations, lost textbooks and perishable food.

The conferees agree with the direction contained in House Report 107-480 with regard to the FEMA Inspector General review of FEMA's statutory authorities and identification of any gaps in coverage which may exist in dealing with disasters such as the terrorists attacks of September 11, 2001.

DISASTER ASSISTANCE FOR UNMET NEEDS

The conferees have agreed to provide \$23,200,000 for disaster assistance for unmet needs, instead of \$23,320,000 as proposed by the House. The Senate did not include any funding for this program. The amount will be available to address unmet needs arising from Presidentially-declared disasters occurring in fiscal year 2002.

EMERGENCY MANAGEMENT PLANNING AND ASSISTANCE

The conferees have agreed to provide \$447,200,000 for emergency management planning and assistance instead of \$151,700,000 as proposed by the House and \$745,000,000 as proposed by the Senate. Of the amount provided, \$221,000,000 is contingent emergency funding. The amount provided includes \$100,000,000 for State and local all hazards operational planning; \$150,000,000 for the fire grant program as authorized by the Federal Fire Prevention and Control Act of 1974, as amended; \$25,000,000 for Citizen Corps; \$56,000,000 for emergency operations centers; \$5,000,000 for development of mutual aid agreements; \$7,000,000 for procurement of secure communications equipment; \$54,200,000 for upgrading existing Urban Search and Rescue Teams; and \$50,000,000 for interoperable communications equipment for firefighters and emergency medical services. With regard to the amounts listed above, FEMA is directed to notify the Committees on Appropriations of the House and Senate of any funding changes between \$500,000 and \$1,000,000. Any change in excess of \$1,000,000 may be made only upon prior approval of the Committees. The conferees direct FEMA to provide a spending plan prior to obligation of

any funds for State and local all hazards operational planning.

The conferees urge that grants under the interoperable communications equipment programs be used to purchase cost effective solutions which allow entities to make existing communications interoperable such as cross band repeaters, frequency band patching and other network level solutions. In addition, equipment provided under these programs should be compatible with public safety analog ANSI/TIA-603 and/or digital radio ANSI/TIA-102 Standards.

CERRO GRANDE FIRE CLAIMS

The conferees agree to provide \$61,000,000 in contingent emergency appropriations for claims resulting from the Cerro Grande fire. The conferees have included bill language which makes up to 5% of the funds available for administrative purposes. The conferees do not anticipate a need for additional funding and expect FEMA and the Cerro Grande Fire Claims Office to expedite all claims.

NATIONAL SCIENCE FOUNDATION EDUCATION AND HUMAN RESOURCES

The conferees have provided \$19,300,000 for the Federal Cyber Service: Scholarships for Service program as proposed by the Senate instead of no funds as proposed by the House.

In light of the apparent need for increased Federal personnel with enhanced information infrastructure skills, significant appropriations have been provided to "jump start" the program. With these supplemental funds, this new program has been provided in excess of \$30,000,000 for fiscal year 2002. At the same time, however, the fact remains that the Administration has yet to develop and forward to the Congress a comprehensive, short- or long-term plan relative to this program. Prior to September 16, 2002, the NSF is directed to provide to the Committees on Appropriations a report detailing how this program will significantly increase the number of federal cyber security personnel and the expected, long-term costs of the program. In developing this report, NSF should consult with other federal agencies that have experience in running scholarships-for-service programs. This should include, but not be limited to, the Departments of Education and Health and Human Services.

GENERAL PROVISIONS—THIS CHAPTER

The conference agreement includes a provision increasing the fiscal year 2002 total loan guarantee limitation to \$165,000,000,000 for the Federal Housing Administration (FHA) single family mortgage insurance program as proposed by the House. The Senate did not include a similar provision.

The conference agreement includes a provision increasing the fiscal year 2002 total loan guarantee limitation to \$23,000,000,000 for the FHA general and specialized risk mortgage insurance programs as proposed by the House. The Senate did not include a similar provision.

The conference agreement includes language, modified from language included in the Senate bill, directing the Department of Housing and Urban Development to resume the Asset Control Area Demonstration Program (ACA) by September 15, 2002. Language also is included requiring that any agreement or contract conform with applicable statutory requirements. In April 2002, the Department issued a moratorium on new agreements and contracts, including renewals of expiring contracts, pending a review of the program and development of appropriate program management tools and regulations to correct deficiencies identified by the Inspector General. These deficiencies were largely the result of the Department's failure to manage the program consistent with the law. While the conferees understand that

such actions were necessary to correct these deficiencies, the conferees are concerned that the moratorium could be unduly punitive to those participants whose programs have met the ACA demonstration program objectives. The conferees believe it is important that the Department expeditiously resolve this matter and resume the program in areas that further the objectives of the program. The House did not include a similar provision.

The conference agreement includes modified language, similar to language included in the Senate bill, directing the HUD Secretary to provide quarterly reports on the status of certain defaulted FHA-insured multifamily housing projects. The House did not include a similar provision.

The conference agreement includes language, modified from language included in the Senate bill, to remove the use restrictions on a property in Baltimore, Maryland, only for the purposes of converting the property to student housing, subject to certain requirements. These requirements include the full payment of any outstanding mortgage balances and any outstanding loan, and the use of residual receipts and replacement reserves to pay for relocation of current tenants with any excess to be returned to the Department of Housing and Urban Development. Should the property not be converted to student housing, the use restrictions would remain in effect. The House bill did not include a similar provision.

CHAPTER 14

GENERAL PROVISIONS—THIS TITLE

The conference agreement includes a provision as proposed by both the House and the Senate that limits the availability of funds provided in this Act.

The conference agreement includes the House provision that fully offsets the revenue aligned budget authority reduction required by TEA-21 in fiscal year 2003 by raising the highway category guarantee and providing an additional \$4,369,000,000 in federal-aid highway obligation limitation, for a total obligation limitation of \$27,653,143,000. The Senate bill included a provision directing that the federal-aid highway obligation limitation in fiscal year 2003 be at least \$27,746,000,000 and not more than \$28,900,000,000.

The conference agreement deletes a provision proposed by the House to require the United States Government to take all steps necessary to guarantee the full faith and credit of the Government.

The conference agreement does not include the provision contained in the House bill reclassifying certain counties in Pennsylvania and New York for purposes of reimbursement under the Medicare program. The conferees express in the strongest terms their request that the authorizing committees of jurisdiction, the Senate Finance Committee and the House Ways and Means Committee, develop legislation as soon as possible to address the geographic inequities that exist nationwide in Medicare reimbursements because of the wage indices used.

The conference agreement includes a provision rescinding \$350,000,000 of previously appropriated funds made available for administrative and travel expenses in all federal agencies and offices. The provision specifies that individual rescissions to implement this reduction shall be applied on a pro rata basis to each office, agency, and Department in the executive branch that is funded in Appropriations Acts. The Director of the Office of Management and Budget shall provide a report to the Committees on Appropriation within 30 days after the date of enactment of this Act describing: (1) the amount rescinded in each office, agency, and

Department; and (2) the methodology used to identify the offices, accounts, and amounts to be rescinded. Neither the House nor the Senate bill included a similar provision.

The conference agreement modifies language proposed in Title II of the Senate bill relating to the availability of emergency appropriations in this Act. The conference agreement provides that any amount in this Act for which availability is made contingent upon an emergency designation by the President shall not be available unless all such contingent amounts are designated by the President. The designation must be made within 30 days of enactment of this Act.

The conference agreement deletes a provision as proposed in Title II of the Senate bill relating to a sense of the Senate on the reorganization of the FBI.

TITLE II

AMERICAN SERVICE MEMBERS' PROTECTION ACT

The conference agreement includes the American Service Members' Protection Act as proposed by the House and the Senate. The conference agreement also includes a provision, as proposed by the Senate, relating to assistance to international efforts to bring certain individuals to justice.

TITLE III

OTHER MATTERS

The conference agreement includes a provision as proposed by the House relating to adjustments to the Caribbean Basin Economic Recovery Act with respect to textiles.

The conference agreement includes a provision relating to mail delivery in Alaska, as proposed by the Senate, with technical modifications. The House bill included a related provision as section 1406.

The conference agreement includes a provision, as proposed by the Senate, relating to

amendments to the Alaska Native Claims Settlement Act. The House bill contained no similar provision.

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 2002 recommended by the Committee of Conference, with comparisons to the fiscal year 2002 budget estimates, and the House and Senate bills for 2002 follow:

[In thousands of dollars]

Budget estimates of new (obligational) authority, fiscal year 2002	\$29,512,519
House bill, fiscal year 2002	28,775,894
Senate bill, fiscal year 2002	32,614,644
Conference agreement, fiscal year 2002	30,010,699
Conference agreement compared with:	
Budget estimates of new (obligational) authority, fiscal year 2002	+498,180
House bill, fiscal year 2002	+1,234,805
Senate bill, fiscal year 2002	-2,603,945

C.W. BILL YOUNG,
RALPH REGULA,
JERRY LEWIS,
HAROLD ROGERS,
JOE SKEEN,
FRANK R. WOLF,
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Senate

The Senate met at 9:30 a.m. and was called to order by the Honorable DANIEL K. AKAKA, a Senator from the State of Hawaii.

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Gracious Father, our morning prayer is like being amazed by deposits in our checking account from unexpected sources. We are astounded by Your goodness. You know what we will need for today and You deposit the required amounts of insight, discernment, and vision in our minds. You fill the wells of our hearts to overflowing with the added courage and determination that are necessary for the demands of today. Even now, we feel the fresh strength of Your Spirit energizing our bodies. We should not be surprised. You have promised that,

"As your days, so shall your strength be".—(Deuteronomy 33:25).

Bless the women and men of this Senate and all who work with and for them that this will be a day in which we draw on Your limitless resources for dynamic leadership. You are our Lord and Saviour. Amen.

PLEDGE OF ALLEGIANCE

The Honorable DANIEL K. AKAKA, a Senator from the State of Hawaii, led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, July 19, 2002.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable DANIEL K. AKAKA, a Senator from the State of Hawaii, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. AKAKA thereupon assumed the Chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will be a period for the transaction of morning business, not to extend beyond the hour of 11:30 a.m., with Senators permitted to speak therein for up to 10 minutes each, with the time to be equally divided between the two leaders or their designees.

In my capacity as the Senator from the State of Hawaii, I suggest the absence of a quorum. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ENZI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Wyoming is recognized.

Mr. ENZI. I thank the Chair.

(The remarks of Mr. ENZI pertaining to the introduction of S. 2760 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

21ST CENTURY MEDICARE ACT OF 2002

Mr. ENZI. Mr. President, since I still have time remaining under morning business, I will comment on another issue that I am sure will be commented on throughout the day and later next week. Later this morning I will be at a conference meeting on the accounting reform bill. I have had a considerable role in that process and will be doing that when we get to the actual debate on this bill. I see that as a top priority as well.

Today I rise in support of the tripartisan 21st Century Medicare Act, which was introduced on July 15 by Senators GRASSLEY, SNOWE, JEFFORDS, BREAUX, and HATCH. This bill is a giant step forward for seniors in this country and it demonstrates a sincere commitment to future beneficiaries, by taking steps to preserve, improve, and modernize the Medicare Program. No other proposal before the Senate can deliver on such a promise.

Some of them have not been introduced yet. In fact, we have been a little disappointed that bills have not been introduced so that a more direct discussion can be done on that.

I should say, not only no other proposal is before the Senate, no other proposal that is being talked about out there can deliver on the promise that this bill does.

This bill very likely has the support of the majority of the Senate. Of course, we would need a supermajority, or support of 60 Members, to adopt the bill. It raises a very important and interesting question. It is a budget question, because the score of the tripartisan bill exceeds by \$70 billion the \$300 billion Congress reserved last year for Medicare; there is a budget point of order that can be raised against the bill.

Essentially, if a Senator votes against removing or bypassing the budget point of order, they will be saying this bill costs taxpayers too much,

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



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so I will not support it. But what is really interesting is that many of those who oppose this bill are actually supporting a proposal that is significantly more costly to the taxpayers. So I suggest people take a look to see who votes against this bill on the basis it exceeds the amount of money we have set aside by \$70 billion and then perhaps votes for a bill that is \$700 billion, \$800 billion, \$900 billion—or a trillion dollars—perhaps twice or three times the cost of this bill.

My point is a number of my colleagues could find themselves in the position of voting against one bill because it costs too much only to turn around and support a competing bill that is two or three times more costly.

Beyond cost to taxpayers, there are other important policy differences between the two Medicare drug benefit proposals. I believe the most important is that the tripartisan bill stretches Federal dollars further than any other proposal and provides a permanent, comprehensive drug benefit that's affordable for seniors and taxpayers. This is a critical achievement.

And, the bill does even more. It provides seniors with the option of an expanded fee-for-service plan, including drug coverage, that will serve as the first modernization of the scope of benefits under Medicare since the program was created almost 40 years ago.

Lastly, while Medicare managed care plans—known as Medicare Plus Choice plans—are not serving Wyoming, millions of seniors across the country made the "choice" to enroll in those plans, and this bill makes long overdue improvements to how those plans compete for seniors' business. My colleagues from more populous and urban states undoubtedly know that seniors who have Medicare Plus Choice plans as an option now want to keep that option and want to see it expanded and improved.

All of this sounds like a lot. And it is. But I won't stand here and tell my constituents in Wyoming that this is everything they might dream of in a prescription drug benefit. It is a giant step forward and it will absolutely reduce the drug costs seniors bear today. It won't make those costs disappear, but it will dramatically reduce them. And, it's a benefit we can afford to enact for seniors today and keep our promise to implement it in 2005. The proponents of the Daschle bill are also making seniors promises about a great new drug benefit. Except we can't afford it, so it's a hollow promise.

The opponents of the tripartisan bill will say that our bill doesn't provide a real benefit to seniors. Well, here's the skinny on our bill and what it will save seniors in out-of-pocket costs. The Congressional Budget Office (CBO) determined that Medicare beneficiaries will spend an average of \$3,059 per year on drugs in 2005. If enacted, this bill would cut those costs by 53%—a savings of over \$1600. That is real money. CBO also determined that the bill

would cut costs for lower-income beneficiaries at or below 135% of poverty by 98%, a savings of \$2,988! The estimated out-of-pocket cost per prescription among the 50 most-prescribed medications would be \$21. And, every beneficiary would have at least 2 drug plans to choose from when selecting the plan that best fits their health care needs.

The Democrat bill, on the other hand, has a statutorily prescribed cost sharing for all drugs that the government decides to include in the plan, and every senior must participate in that one-size-fits-all plan. That's a concerning and very significant difference from the tripartisan bill. All of us in this body have numerous choices of health plans both at and above the standard benefit package under the Federal Employees Health Benefit Program. I do not believe seniors should be—by law—without a choice in their own health coverage. Unlike the tripartisan bill, the Daschle bill completely misses the opportunity to improve Medicare through expanded choices for seniors when selecting the right drug coverage.

To restate another distinction I raised earlier, the tripartisan bill has been officially scored by the CBO to cost \$370 billion over 10 years. The sponsors of the Daschle bill have not provided us with an official score, but the unofficial scores are as high as \$1 trillion over 10 years. More importantly, the drug benefit is not permanent under the Daschle bill. It would sunset in the year 2010. That is to hold costs down as much as possible. There are rumors of a 4th iteration of the bill that would not sunset the benefit, but that bill has not been introduced and will be much more costly.

Since I'm talking about the cost of the Daschle bill to taxpayers, I would be remiss if I did not talk about the cost of the bill to seniors themselves. Because the bill would cement in Federal law fixed co-payment amounts for all drugs, seniors will actually pay more for certain drugs than they would if the bill allowed drug plans to offer lower co-payments. The CBO analysis and score of the tripartisan bill proves that it employs this logic and essentially proved that drugs will be provided in a more cost-effective way under the tripartisan model.

I have mentioned it before, but I just want to say again that, in addition to the very high profile issue of needing to provide a drug benefit, Medicare has many other shortcomings. It is crying out for updating and improvements. No one in this chamber can possibly be satisfied with the program's status quo. Every day—literally—I either meet with or hear from my constituents who interact with the Medicare program or beneficiaries. They are all complaining, and rightly so. The program was created with the best of intentions. But since that day some 40 years ago, the rest of the health care world has evolved and improved, from standards of care to technology to dis-

ease management. Not to mention how providers are reimbursed and empowered in the delivery of health care services. I question whether any of this progress has penetrated the morass of the Medicare program. In fact, all I seem to hear from my constituents is that things are pretty bad with Medicare right now. That is before the new program is started.

I am astonished that only one of the two major bills—the tripartisan bill—tries to address the other problems with Medicare. The foundation of the program desperately needs reinforcement; simply building on its weak foundation the way the Daschle bill does is dangerous and falls short of our obligation to do our best for seniors where all of their health care is concerned. Where the tripartisan bill has an enhanced fee-for-service option and improvements to the existing Medicare Plus Choice option, the Daschle bill is eerily silent. Such an absence of reform will only cost seniors more money in patch jobs down the road.

I guess I have come full circle. This debate is all about giving seniors additional coverage options and saving them money. Many seniors currently lack drug coverage. All of the bills will give them coverage and cost them less out-of-pocket than what they pay right now. But only the tripartisan bill will give them flexibility in their coverage choices and buy them and taxpayers the most that a dollar will buy. That takes competition and modernization. The tripartisan bill has both. The Daschle bill prohibits competition in its statutory language and does not entertain even modest improvements to the rest of the Medicare program.

The choice is clear to me and, I imagine, will be crystal clear to the American people. For that reason, Mr. President, I would ask unanimous consent that I be added as a cosponsor of the 21st Century Medicare Act.

The PRESIDING OFFICER (Mr. CORZINE). Without objection, it is so ordered.

Mr. ENZI. Mr. President, I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

Mr. ALLARD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Colorado is recognized.

Mr. ALLARD. Mr. President, I ask unanimous consent that I be allowed to speak for 20 minutes in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE SENATE HAS NOT PASSED A BUDGET

Mr. ALLARD. Mr. President, I wish to express to the Senate my sincere

disappointment that we have not passed a budget. It has been 27 years since we have had this budget process in place in the Senate. This is the first time we have not had a budget plan passed out of the Senate.

If we are going to begin to talk about the need for various programs, it would certainly be helpful if we had some idea of where our limits were. I happen to believe we need to work to eliminate our deficit spending. We need to work to make sure we are trying to hold down the growth in our total debt.

MEDICARE PRESCRIPTION DRUG BENEFIT

Mr. ALLARD. Mr. President, I think it is vitally important that the Senate pass a Medicare prescription drug benefit plan now. Our seniors need it, our seniors have been waiting for years for it, and our seniors deserve it now.

Medicare is a health care entitlement program for the elderly. Since Medicare was established in 1965, Congress has considered adding a prescription drug benefit to the program. In the 106th Congress, the Senate got serious about enacting a benefit but was unsuccessful in their efforts.

I hope the Senate is successful now. I am concerned, however, that the legislative process has been derailed. The majority leader decided to bring to the floor S. 812, the Greater Access to Affordable Pharmaceuticals Act. This legislation did not proceed through the Committee on Finance. In order for a revenue measure to not face a Budget Act point-of-order, legislation must proceed through the Committee on Finance. S. 812 did not. As a result, the Senate is left with assuming budget points-of-order against any and all revenue legislation as we continue debate this week.

This is unacceptable. Seniors need drug coverage now. But the Senate majority has stalled the process. I hope seniors across the United States realize what has happened. This faulty procedure is robbing seniors of their drug benefit, which Congress and the President support but which the Senate is denying. Politics is superseding policy and that is simply unacceptable.

Because S. 812 did not proceed through the Committee on Finance, next week the Senate will take up the Graham-Miller, tripartisan, Hagel-Ensign, and Smith-Allard amendments in an attempt to provide a prescription drug benefit. We can only hope that the Senate will waive the budget point-of-order raised against these measures.

I have serious concerns about the legislation introduced by Senators GRAHAM and MILLER. Graham-Miller would be a temporary drug benefit, without secure financing. Graham-Miller would raise drug prices significantly, and Graham-Miller would not be able to be implemented as proposed. Graham-Miller would have an immeasurable and possibly unlimited cost.

Senator GRAHAM's bill does not even have a CBO score. That is another con-

cern I have. Preliminary estimates are that it would cost at least \$400 billion to \$800 billion over only 6 years. With two-thirds of seniors already obtaining their prescription drugs independent of Government, the Graham plan, frankly, is too generous at a time when Social Security solvency is at risk. According to CBO, Medicare beneficiaries will utilize \$1.8 trillion worth of drugs over the next 10 years. But \$1.1 trillion of this \$1.8 trillion will be paid by third parties, such as employers, States, and Medicare+Choice plans. Drug benefit proposals should focus on reducing the \$700 billion that will be paid by beneficiaries, not shifting the remaining \$1.1 trillion to the Federal budget. Seniors and taxpayers need a plan that provides a benefit that does not blanket seniors with costs completely covered and that does not break the Nation's bank. Graham-Miller's cost alone is reason to oppose it.

Other Senate drug proposals are less expensive. The tripartisan 21st Century Medicare Act of 2002, introduced by Senators GRASSLEY, SNOWE, BREAU, JEFFORDS, and HATCH, is estimated to cost about \$350 billion from the years 2005 to 2012. For days, weeks, and months, the Senate Finance Committee members and staff have worked tirelessly to write a bill that expands drug plan options for seniors and refines and enhances Medicare+Choice, Medigap, and other programs. This tripartisan bill will establish a universal, voluntary prescription drug benefit with affordable premiums and special protections for low-income seniors. The tripartisan bill would add a new voluntary fee-for-service option to fit modern health benefit packages, and it will strengthen another drug option under Medicare+Choice.

I am pleased that this tripartisan group of Republican, Democrat, and Independent Senators have joined together to provide a Medicare prescription drug benefit. The tripartisan plan expands drug options for seniors so they can choose a plan that fits their needs.

I also laud the work of Senators HAGEL, ENSIGN, GRAMM, and LUGAR who introduced the Medicare Prescription Drug Discount and Security Act. The Hagel-Ensign plan would offer beneficiaries a voluntary drug discount card that they could use to purchase prescription drugs. The bill would cover catastrophic drug costs for beneficiaries under 600 percent of the Federal poverty level, so that seniors making less than about \$53,000 will pay no more than \$1,500 to \$5,500 in out-of-pocket expenses. The bill also does not require monthly premiums, deductibles, or benefit caps. This bill is fiscally responsible, costing about \$150 billion over 10 years. I commend Senators HAGEL and ENSIGN for their work in offering this voluntary plan for seniors who need it most.

Senator SMITH and I also have introduced an amendment to S. 812 that would provide a Medicare prescription

drug benefit. Under our plan, the voluntary Medicare prescription drug plan, a Medicare beneficiary already enrolled in Medicare Parts A and B will have the option of choosing a new, voluntary prescription drug plan called Rx Option. This would cover 50 percent of their prescription drug costs toward the first \$5,000 worth of prescriptions that the senior purchases.

Currently, Medicare Part A has a \$812 deductible and Part B has a \$100 deductible. The Smith-Allard plan would create one deductible for Part A and Part B of \$675 that would apply to all hospital costs, doctor visits, and prescription drug costs. Once this \$675 deductible is met by the Medicare recipient, Medicare will pay 50 percent of the cost toward the first \$5,000 worth of prescription drugs that the senior purchases.

In addition, there is no benefit premium that would be required. Our plan is revenue-neutral. It is voluntary and will lower Medigap premiums by \$550 per year.

According to the National Bipartisan Commission on the Future of Medicare, the Federal Government pays about \$1,400 more per senior if the senior has a Medigap plan that covers his Part A and Part B deductibles. This generally is attributed to the fact there is overutilization of hospital and doctor visits by the senior because no deductible is required under Medigap, and seniors are more inclined to visit the hospital or doctor without having to pay a deductible.

The Smith-Allard plan would require seniors pay a deductible. As a result, Medigap utilization will decrease and savings are achieved. In other words, there is an incentive created for the senior to go to the doctor when he needs to and not simply because it cost him nothing.

The Smith-Allard plan would work as a stand-alone drug benefit or as a complementing, additional drug benefit in conjunction with the other drug options about which I talked earlier. Our plan has a number of features that both the Graham-Miller plan and the House-passed Medicare Modernization and Prescription Drug Act do not have.

I would like to take a minute to go over a chart I put together on Smith-Allard. This is the Smith-Allard proposal as compared to current law, as compared to the Democrat plan referred to as Graham-Kennedy, and as compared to the House GOP plan for prescription drugs.

This is assuming the senior has Medigap supplemental insurance. Under current law, there is no deductible with the doctor or the hospital when they have Medigap insurance coverage.

With the Smith-Allard plan, there would be a \$675 deductible that would combine for both Part A and Part B of Medicare. Under the Democrat plan, there is no deductible, and in the House plan there is no deductible.

The prescription drug deductible is not covered in current law. It is combined in the Smith-Allard plan. There is no deductible in the Democrat plan and the House plan.

The average supplemental insurance premium under current law is \$1,611. Under the Smith-Allard plan, this comes to \$1,061. This remains the same under both the Graham-Kennedy and House GOP plan.

Prescription drug premium: Under current law, there is no coverage. Under the Smith-Allard plan, the prescription drug premium would be zero. Under the Democrat plan, the monthly charge that is talked about as \$25 a month, this amounts to a \$300-a-year premium, and the House GOP plan, which is \$30 a month, amounts to an annual premium of \$420.

Total annual premiums and deductible: Under current law, we stay at the \$1,611 level. Under the Smith-Allard plan, it is \$1,736. Under the Democrat plan, the Graham-Kennedy proposal, it is \$1,911. And the House GOP plan is \$2,281.

Let's look at the 10-year cost to the Medicare Program. Obviously, we do not have anything under current law. The Smith-Allard plan would remain at zero. The 10-year cost of the Medicare Program to the taxpayer is zero.

The Graham-Kennedy plan gets up to \$600 billion, and some estimates are running between \$400 billion and \$800 billion; \$600 billion is the number we use on this chart.

The House GOP plan comes in at \$350 billion. Some are estimating \$370 billion currently.

Who provides the drug benefit? Under current law, it is not covered. Under the Smith-Allard plan, Medicare provides that drug benefit. In the Graham-Kennedy bill, Medicare provides it. And under the House GOP, it is provided by the private insurance industry.

What is the comparison of drug coverage? Currently, there is no coverage. In the Smith-Allard plan, there is 50 percent coverage of all drugs up to \$5,000. In the Graham-Kennedy plan, the senior pays \$10 for generic drugs and \$40 for brand name drugs. Then in the House GOP, there is 20 to 30 percent coverage up to \$1,000 the senior pays, and then 50 percent between \$1,000 and \$2,250, and 100 percent over the \$2,250, up to \$5,000.

Let's look at the catastrophic coverage under these various plans. Under the Smith-Allard proposal, it is optional. Seniors can decide whether they want to take it or not. Coverage could be provided with savings if they decide to take that optional provision. In the Graham-Kennedy plan, it is over \$4,000, and in the House GOP plan, it is over \$5,000.

The nice thing about the Smith-Allard plan and one reason I am presenting it to the Senate today and have introduced the legislation with Senator SMITH is because it provides another option, and it is compatible with these other drug plans, particularly the first

one we talked about, the tripartisan plan, with an Independent, Democrats, and Republicans supporting the plan. Our bill is very compatible with that kind of a plan.

The amendment I will be offering with Senator SMITH is simply to provide seniors with an option so that as we move forward with this, it may be they do not want to pay the \$25-a-month premium or the \$30-a-month premium. They can say: I will offset that by increasing my deductibles in Part A and Part B on Medicare. I think it is the kind of choice we ought to offer seniors. It will balance any of the plans that happen to pass the Senate, and we ought to pass it in the Senate in order to give seniors some choice.

I am pleased the Senate is working to pass a prescription drug benefit for Medicare's 40 million enrollees. The Senate should be pleased that many Members have worked hard in recent years to add a drug benefit. We should be pleased that we are debating various proposals now. But our efforts are in vain if we do not pass a drug benefit this year. Our efforts are in vain, I repeat, if we do not pass a drug benefit this year. I urge my colleagues to set aside politics and pass a Medicare prescription drug benefit now.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

Mr. KYL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KYL. Mr. President, I ask unanimous consent to speak until the hour of 11:20 a.m. in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMERICA'S SENIORS NEED PRESCRIPTION DRUG COVERAGE

Mr. KYL. Mr. President, I want to talk about the delivery of prescription drugs to America's seniors. It is a subject that Senators have been talking about pretty much all week long, but people tuning in might wonder whether we are really making any progress toward getting a bill passed. That is what I would like to address this morning.

For quite a long time now, we have appreciated the fact that when Medicare was created, treating people with medications was not the preferred or first or primary method of treatment. So much of what Medicare covers today is the cost of invasive surgery, and the cost of just about every other kind of treatment except treatment through the use of medication or prescription drugs. Over the last 25 years, it has become increasingly common for physicians first to treat with medications, if possible. It seems second nature to us now. When Medicare was first established, that was not the case.

As a result, most prescription drugs were not covered as part of Medicare.

Over the years, people learned how to receive supplemental drug coverage through Medigap insurance and other ways to pay for prescription drugs, but the combination of the fact that Medicare itself did not set out to cover those drugs and, second, that the cost of drugs has obviously increased over the years has made it more difficult for some seniors to be able to pay for their prescription drugs, especially since, again, this is what their physicians are prescribing as the best way to treat them in many cases.

Add to that the fact that people are, fortunately, living longer today, but that the longer one lives, the more likely they are going to need to take various kinds of drugs, and we have a situation in which clearly it is time for Congress to respond with an inclusion of a Medicare drug benefit for all of America's seniors. We have been working on that now for quite a long time.

I find it interesting that on the Republican side there are three or four very good, somewhat different, ways of approaching this because Members on our side have been working hard to try to fashion a set of benefits we can afford and which will also provide the kind of care we want for our senior citizens, and now we have a number of options.

I sit on the Finance Committee. Last year, when Senator GRASSLEY chaired the Finance Committee, we began working legislation through the Finance Committee to try to bring to the Senate floor so we could provide a prescription drug benefit to Medicare. Then the control of the Senate changed.

Toward the end of last year, Republican members continued to meet and, in fact, began reaching across the aisle to meet with the Democratic members of the Finance Committee and also with the Independent Member of the Senate, Senator JEFFORDS, who had left the Republican Party and caucused with the Democrats but is identified as an Independent, and over the months, representatives of the Republican Party, the Democratic Party, and Senator JEFFORDS have come together on an approach that has now acquired the name, the tripartisan approach—because it is not just the two parties but, it is actually three parties—an approach that actually will deliver a very good prescription drug benefit to our seniors and a plan that actually is unique among all of the different ideas that have been brought to the floor because it can actually pass the Senate.

It has more than 51 votes in the full Senate, we believe, and it could pass the Finance Committee. Senator BREAU is one of the leaders in this coalition, and he has been a leader in the Finance Committee in support of this. So a great deal of work has been done to try to develop the kind of reform that is necessary to provide prescription drugs to our seniors.

Then why the discussion on the Senate floor and what is going to happen next week? Well, at the early part of next week, we are finally going to have a chance to vote on some alternatives. There will be at least two. One will be this tripartisan plan I mentioned that has been offered by Senators GRASSLEY, HATCH, SNOWE, JEFFORDS, BREAUX, and others, and the other will be a competing plan brought by some members of the Democratic Party, led by BOB GRAHAM from the State of Florida. The two proposals approach the prescription drug issue in fairly different ways. I am hoping we will have a good debate about the difference between those two approaches.

There are also approaches from other Republican colleagues who are even more different and in some ways provide a very direct benefit to seniors at a much lower cost than either of the two bills I just described. The problem is that at the end of next week, it is doubtful the Senate will have passed any of these bills.

How can that be if, as I said, there is majority support at least for one of the bills? I fear the problem is a political one, that there are some people who would rather have an issue than a bill, a problem rather than a solution, because of course the problem can continue to be talked about in a campaign context. I would rather have a bill that provides the benefit we can all take credit for, but if politics is the primary motivation, then clearly doing something is a good way to appeal to voters. But of course the whole point is it is the right thing to do.

It is past time that we provided a drug benefit to our seniors. Why is it that my prediction is what it is? Ordinarily, if the Finance Committee brought a bill to the floor, we would vote on it and the majority would prevail. It either wins or it loses. But in this case, even though the Finance Committee has been working very hard under the chairmanship of Senator BAUCUS's and Senator GRASSLEY's leadership on the Republican side, we are close to being able to mark up the bill in the Finance Committee and bring it to the floor. It is clear that the Senate majority leader has, according to Senator BAUCUS, indicated the bill would have to be acceptable to him in order for it to come out of the Finance Committee and brought to the floor. That was not the case with the so-called tripartisan bill. The legislation that has been brought to the floor by the majority leader is not legislation that would have come out of the Finance Committee.

Why is that important? Because a point of order lies against legislation that does not come out of committee. In practical terms, that means you have to have 60 votes on the Senate floor to pass it.

What has been set up is a process that is set up to fail. By not allowing the Finance Committee to bring its bill to the floor and be voted on by a ma-

jority of 51, we are setting up a requirement that any bill has to pass with 60 votes because it did not come out of committee; 60 votes will be very difficult to achieve because the Senate is divided roughly 50/50 among the two parties.

We have different approaches to this solution, this problem. The only bill that likely would pass is the so-called tripartisan compromise. But if it has to have 60 votes, that is a stretch, as well. I am not sure we can get 60 votes.

At the end of the day, by virtue of the process that has been created, we are not likely to end up with any legislation at the end of next week. Then what will we do? Point fingers: It is your fault. No, it is your fault.

The bottom line will be that the American people end up the losers. Our seniors will not have a prescription drug benefit because the Senate decided to operate in a way that guaranteed that conclusion.

The House of Representatives has passed a bill that is a good bill. It is not exactly what I would do, but it is a good start. The Senate should act in the same way.

Let me describe a little bit about what this tripartisan bill does. Even though it is not a bill I would have written, I am willing to support it, primarily because it does have a number of good ideas, and it can be passed and we can move on, get a bill to conference and to the President for signature to begin providing Medicare drug benefits for our seniors.

The tripartisan plan is a comprehensive plan. It is a permanent plan with respect to providing drugs to all Medicare beneficiaries. It also has another feature that the other plans, by and large, do not, in that it provides reforms of Medicare that will ensure that as the program continues on out into the future, it will actually work. The problem with both Social Security and Medicare today is without serious modernizations neither one can provide the benefits that have been promised. Those are commitments that we should be ensuring we can keep.

Under this plan, Medicare beneficiaries will have a new drug benefit option. They can keep their current Medicare plan and do nothing, or they can buy into the new drug plan provided for them. If they sign up for the new plan, it is completely voluntary on their part. If they sign up for the new plan, they will have choices so that they can pick what best suits them. They would pay a premium that is estimated to be about \$24 a month, very similar to the monthly premium seniors now pay for Medicare Part B. They would be able to choose between competing plans. The plans would compete for their business and therefore would offer the best possible arrangements for each individual senior. The plans generally would have an annual deductible of \$250. This is similar to the Part B deductible seniors now pay which is currently \$100.

A key difference is after \$3,700 in out-of-pocket drug spending by the beneficiary, the Government would pay 90 percent of the costs, and the beneficiary would only pay 10 percent. As Medicare beneficiaries know, traditional fee-for-service Medicare does not have this type of important stop-loss coverage for the benefits it provides; stop-loss meaning after you pay a certain amount you do not have to pay anymore, the Government would begin paying the bulk at that point. It is important to protect the beneficiaries from high drug costs, particularly those who have a significant illness, or a longstanding illness that will require them to pay for drugs over a long period of time.

Another important aspect of the proposal is it is affordable. The CBO has estimated the cost, what we call scoring, will be \$370 billion over 10 years. Given it is estimated the alternative offered by the House Democrats cost in the neighborhood of \$800 billion to \$900 billion over 10 years, and the Graham-Miller proposal will cost almost \$600 billion over 10 years, we clearly have an inability to fund that kind of a program. I believe the tripartisan plan is a much more affordable and practical plan.

In an artificial attempt to keep down their costs, the Graham-Miller plan sunsets after just 6 years. The proponents of this plan claim the reason they sunset their legislation after 6 years, in the year 2010, is they want the ability to look to see whether changes are necessary. The fact is, it is a very expensive plan, about \$600 billion over 10 years, if enacted on a permanent basis, making it undesirable from a political point of view. That is one of the reasons that plan should not be supported.

Let me also say we can examine legislation at any time, whether or not it sunsets, and we can review legislation every year and propose amendments to it. We do not need to sunset this legislation.

I mentioned the fact that traditional fee-for-service Medicare does not have the stop-loss provision so people can continue to pay for high-cost drugs on and on. Under the tripartisan plan, beneficiaries will have a chance to join this new fee-for-service option instead of joining Medicare Part A and Part B, as they do now. It would have a combined deductible, instead of two separate deductibles that beneficiaries have to deal with today.

Additionally, it would eliminate the beneficiary cost sharing for preventive benefits, such as breast cancer screening, prostate cancer screening, and screening for glaucoma. This allows Medicare beneficiaries to receive these benefits without having to pay a so-called copay.

One of the important aspects of the new option is the ultimate \$6,000 stop-loss coverage, especially important if a Medicare beneficiary has a long hospital stay. As I said, there are those

who have serious illnesses that simply cannot afford to pay more than that. This new option is a complete benefits package as opposed to just a prescription drug package. Instead of just trying to address the issue of providing drugs, the tripartisan bill puts it into a new option in the traditional Medicare Program that currently exists so people will know what they have a comprehensive plan. They can make an intelligent choice and know that it is all there for them together.

I will comment on another important part of the plan, and that is that it uses the current market system that seniors are familiar with to deliver the benefits. The alternative is a strictly Government plan that has to be run by Government bureaucrats. They will make the rules. They would establish exactly what the benefits are over time and what the costs of those are. By using the market that is currently used, there is competition to provide the product that is the best for seniors at the lowest cost, so that seniors' needs will actually keep the costs down and keep the benefit structure positive, as opposed to the Government bureaucrats making those decisions.

The tripartisan plan includes coverage for drugs within all therapeutic categories and classes, and provides timely appeals if there is any denial of drug coverage in a particular case. This allows the beneficiary to continue to have access to the needed drug and to call on outside experts to review any decision that would deny them those drugs.

The plans that participate in the program will have to meet access and quality standards that are decided by the Department of Health and Human Services, including pharmacy access standards. We want to make sure in the rural areas Medicare beneficiaries have access to pharmacies they can go to and get good advice. In rare cases, where beneficiaries may not have a choice of at least two of these plans, the legislation guarantees they would have an option of a fallback plan.

Providing affordable drug coverage is the goal of the tripartisan plan. That is why it subsidizes private plans to provide this drug benefit. Using this delivery method, as I said before, will both provide competition to hold down the costs and maintain the kind of program benefit that seniors are used to at the present time.

The CBO has told the authors of the tripartisan plan that using this delivery method not only ensures Medicare beneficiaries access to the new drug plans but also the most effective use of taxpayer dollars. We know the plan will become more expensive over time. Seniors care just as much about taxes as anyone else and they want to know it is affordable. The more affordable it is, the more likely they can expand the benefit to seniors. So that is in their interests, as well.

In contrast, the Graham-Miller plan uses government contractors to admin-

ister their drug benefit. These contractors would have little interest in holding down the cost of prescription drugs for Medicare beneficiaries. We all know what the ultimate result of this would be: the federal government would establish price controls on prescription drugs to hold down the costs. This would have a devastating impact on prescription drugs. Let me offer a real life example of what will happen here.

In some major cities today you have price controls, or rent controls on housing. We all know what happens when you have these rent controls. The bottom line is the prices either go up or the conditions of the tenements go down because the people who own them are no longer in a position to continue to upgrade them because they cannot make a profit on them.

What happens is that a severe shortage of housing is created and most people who do not have access to rent controlled housing have to pay very large amounts just to live in a small apartment. We are familiar with this in the area of housing.

The same thing would happen with respect to drugs. If you use the alternative plan, which will ultimately lead to an attempt by the Government to control the prices—whenever you try to control the price of something, you get less of it. That is exactly what would happen here. People who do not have access will pay extremely high costs. Just as there is no incentive to build new rental housing units in areas with price controls, there will be no incentive to create new prescription drugs. After all, if you cannot make a profit with a new drug that you create, why would you go to the effort and expend the money to try to develop that new drug and put it on the market? It is just not worthwhile to spend the amount of money necessary to create a product when you cannot even cover the costs when you sell it.

If we just think about price controls, if they had existed on prescription drugs over the last 20 years, you are probably not likely to have seen the creation of the fantastic new drugs we all have the benefit of today—to control cholesterol levels, like Lipitor; to help people with allergies; to help people with diabetes; and the list goes on. This could be the result of the Democratic alternative which would try to impose price controls without providing an incentive to create these new drugs. Over time, that will result in inferior medical care because fewer and fewer drugs are being brought to market that will help seniors as well as everyone else.

This is another reason we should support the tripartisan plan that essentially builds on the system we have today, that gives seniors at least two types of choices. Medicare beneficiaries can either continue in the existing Medicare system or get to choose the new options. If you get into the new options, you are going to have at least two plans to choose from. So there is a

lot of choice at the same time that it is also very similar to the current system private employees and federal workers have to receive their health care.

Let me finally talk about how much the Government is paying Medicare providers to serve Medicare beneficiaries. It is a very serious concern. At some point we are going to have to deal with it. In the House of Representatives there was, I think, \$30 billion added to their prescription drug benefit legislation to ensure that physicians and hospitals and other providers would receive the money they need literally to stay in business.

We have emergency rooms around the country that are closing because they are not being paid. It is going to be necessary for us to provide some supplemental funding to the hospitals and other health care providers literally to continue to provide the benefits we are promising through programs such as Medicare and Medicaid. If there are not doctors and hospitals to serve people, we can pass all the laws we want, but it is not going to do people any good. So we are going to have to address this issue, whether it is on this legislation or legislation down the road.

My colleagues may appreciate that by Federal law, under the Medicare Program, physicians will receive a 17-percent cut over the next 4 years in what Medicare pays them to see a Medicare patient. Since private plans frequently base their reimbursements on what the Government Medicare plan reimburses, the effect is, for virtually all physicians, that they are seeing this kind of drastic cut in what they are reimbursed, either by the Government—which provides about 50 percent of the health care—or by the private plans, which provide the remainder.

According to a March 12, 2002, New York Times story, 17 percent of family doctors are not taking new Medicare patients because of this problem. They are simply not getting paid enough to cover their overhead costs.

Last year, Senators JEFFORDS and BREAUX and I introduced legislation that would have partially fixed this problem. This legislation now has 80 cosponsors in the Senate. That means virtually everybody in the Senate has said we need to adopt this legislation. It would help to fix this problem of declining reimbursements for providers.

Additionally, Home health care agencies will be taking a 15-percent reduction in payments starting October 1, skilled nursing facilities will experience a 17-percent cut in some of their Medicare rates, and these are just a few of the examples of payment reductions. So we are not going to be able to provide quality care under Medicare if we are not able to sustain the experts who are providing that care today.

I am looking forward to working with my colleagues to ensure that through the reimbursements we will add, whether in this legislation or

some other legislation this year, we will be able to provide that supplemental help to them until we are able to straighten out the payment formulas under which Congress reimburses the hospitals and other providers that are providing care called for by Medicare.

Let me summarize the point about the difference between the two prescription drug proposals and how we are likely to pass a drug bill that will actually be signed into law. If we had been able to pass a bill out of the Finance Committee, we would only have to have a bare majority—51 votes. The tripartisan bill has support on both sides of the aisle, Democrat and Republican as well as Senator JEFFORDS, another cosponsor, to be able to pass. We could actually get together with the House of Representatives, make the changes, the compromises between the House bill that has already been passed and this bill, and get it to the President for his signature, and by the beginning of the fiscal year we could actually be implementing a new drug for our seniors that they do not currently have.

But because that does not fit in with the plans of the majority leader, we are now in a situation where any bill that is brought here is going to have to have 60 votes to pass. Because of the realities of the political environment in which we operate, it is unfortunately the case that it is going to be very difficult to get 60 votes for any plan.

The one that has the best chance is the tripartisan plan that I alluded to earlier. It is not the bill I would have written, but I am willing to support it because it is a good proposal that has the best chance we have to actually get something passed and deliver a real benefit to our seniors. We will have time to work the issues in the conference committee. We will have time to continue to modify the legislation after it is passed and signed into law. But we have to act, and every year we do not act is a year in which more and more seniors are denied the benefit that they need, that their physicians are prescribing for them and, unfortunately, many of them cannot afford.

It seems to me we should put ideologies and politics aside and try to do something good for the seniors of our country and lay those differences aside to the extent that we can actually pass a bill. It is a good bill. It is a very good bill in terms of providing the benefits. It is costly, but with the reforms in Medicare that are included within it, I think over time we will be able to afford these costs. After all, it is a commitment that we should be satisfying for our seniors.

I urge my colleagues, when the time comes early next week, to lay aside partisan differences, to support the tripartisan bill, the only bill that has a chance of succeeding here, and move on with the political process so we can work with the House of Representatives, pass it on to the President, who

I am quite sure will sign it, and begin providing a prescription drug benefit to our seniors.

Going all the way back to when Medicare was created, we treated people differently. Today we know medications are the primary method of treatment. We have to recognize that here in the Senate, something that all seniors understand very well. Let's recognize the reality, let's provide this drug benefit and really keep faith with the seniors we represent.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mrs. LINCOLN). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mrs. LINCOLN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. JOHNSON). Without objection, it is so ordered.

PRESCRIPTION DRUGS

Mrs. LINCOLN. Mr. President, in all the rhetoric and grandstanding about who has the best prescription drug plan, I truly do not want us to forget who we are trying to help.

I cannot possibly forget the 436,000 Medicare beneficiaries in Arkansas who struggle every single day to pay for the prescription drugs to control blood pressure, their heart, and help them cope with chronic diseases.

Yes, some seniors are eligible for Medicaid. Some have Medigap. But most of them fall through the cracks. In Arkansas, we don't have the tools that other States might have to help our seniors pay for their prescription drugs. Medicare+Choice has left our State. Medigap plans cost a lot more than the national average—almost 20 percent higher, to be exact, a year.

Employer-sponsored retiree health plans are extremely rare. On top of that, 60 percent of our seniors live in rural areas. So how do our seniors afford their prescription drugs, which rise in cost absolutely every year? The sad fact is, they don't.

The best way to combat this problem is add a prescription drug benefit to the Medicare Program. That is why I am so disappointed that neither of the Medicare prescription drug plans we will consider this next week seem to have the 60 votes they need to pass.

I am disappointed we are at a standstill in the Senate, and I am disappointed we have been unable to forge a compromise in the Senate Finance Committee. As a member of that committee, I would prefer to be debating these plans in that committee. However, I understand that the urgency of the issue and the timing of the Senate schedule has brought us here today.

In years past, I have been a cosponsor of Senator BOB GRAHAM's Medicare prescription drug bill. My colleague from Florida has invested a tremendous amount of time and effort in designing a benefit that senior citizens desire.

And he has done well. My constituents have told me how much they like the benefit package and the extra assistance for low-income beneficiaries. They like that the premium will be guaranteed at \$25 a month and will not vary State by State or region by region. This is good because in States such as Arkansas, we usually—almost always—get the short end of the stick when that happens. They like that the benefit is stable and universal and that it does not have a gap in coverage and is straightforward and simple.

Although I favor this plan, I did not cosponsor the bill this year in the hopes that I could help my colleagues on the Finance Committee forge a compromise that would work for seniors and that would have enough votes to pass the Senate. Unfortunately, that effort seems to have failed. I commend my chairman, Senator BAUCUS, for his efforts to try to shape a compromise between these two competing plans that we have before us today.

I also thank my friend from Louisiana, Senator JOHN BREAU, Senator BREAU, through serving on the National Bipartisan Commission on the Future of Medicare in 1997 and shaping the debate in Congress, has played a leading role in the national effort to improve the Medicare Program.

I appreciate the many meetings we have had on this issue and hope we have the ability to continue to work in that bipartisan fashion, working to forge compromises as we move forward on the Senate floor, as well as in conference.

I also want to recognize the tremendous amount of staff work that has been done, particularly and especially by my staff, Elizabeth MacDonald, all of the staff on the Finance Committee, as well as the Members who have had plans.

However, despite the changes Senator BREAU, Senator GRASSLEY, and others have made to the tripartisan bill, I believe the bill still fails to offer an acceptable model to deliver prescription drugs to seniors in rural States such as Arkansas.

I cannot in good conscience vote for a plan that relies on the untried, untested delivery system laid out in the tripartisan plan. The private insurer model will require significant taxpayer subsidies to attract insurers into a drug-only insurance market, something we have never tried before. The insurance companies have told me they are hesitant to assume the risk for this type of plan unless they are heavily subsidized, and I do not think this is a proper use of our taxpayers' dollars. Nor can I support a plan that does not entitle seniors to any particular drug benefit but, rather, only a suggested benefit.

Consider for a moment the story of Mrs. Mildred Owens of Havana, AR. Mildred is 70 years old, and she worked for 35 years before retiring 5 years ago. Now widowed, Mildred receives about \$830 a month in Social Security and about \$125 a month in retirement.

Mildred takes prescription drugs which cost about \$200 a month. After paying her Medicare premium and drug expenses, she has spent well over 27 percent of her income. She said that she and her two sisters, Evallee and Betty, who each make about \$600 a month, do not even go to the doctor anymore because they cannot even afford the prescription drugs the doctor would prescribe. Sometimes Mildred and her sisters must rely on their children to help pay for some of their medications.

If the tripartisan plan were law and if Mildred and her sisters asked me what their monthly premium was going to be and what their benefits would be for prescription drug coverage under Medicare, I would have to say to them, actually, I do not know; I cannot give you a specific; we will have to wait and see what actually happens in our area. Mildred may, in fact, end up paying a different premium for prescription drugs than her friends pay in California or Florida or New York or other States. Yet they both paid taxes into Medicare all of their lives and therefore should be entitled to the same Medicare benefit.

The point is, we do not know yet what private plans might offer in different regions of the country. We do not know what their benefits would be. We do not know if private plans would want to participate. We do not know how much they would charge for it. And there is absolutely no guarantee that seniors would be able to depend on the same plan or benefit structure from year to year. These are just too many unknowns, and for seniors, nothing is more frightening than the unknown.

Why do we want to force our parents and grandparents into an untested delivery system that is unlike any other system in American health care as we know it?

Why should seniors in rural Arkansas, who are older and sicker and more likely to use prescription drugs, be in the dark about what their premiums will be until the Federal Government entices the private insurers to compete in their area of the country?

Why should we risk forcing them to pay higher premiums than those in urban areas?

Show me where it has worked. I ask my colleagues: Show me a study, show me a demonstration project. If the sponsors of the tripartisan plan are so confident that their delivery model will work, then I propose a compromise that could garner the 60 votes needed to pass a Medicare prescription drug plan.

Let's put a demonstration project in the home State of the bill's chief architects and use the Graham delivery model in Arkansas and the rest of the country so that we can be assured of what we are going to get until we know what works. Let's see if this untested delivery model works in a few States before we take it nationwide and put everyone at risk.

Why subject our seniors to a vast social experiment? Why should we subsidize private insurance companies when we should instead empower our seniors with the ability to afford the prescription drugs they need?

I am also concerned that the tripartisan bill has a gap in coverage, albeit a much smaller one than originally proposed. How can I tell seniors in my State that they will not receive any coverage for their drug costs between \$3,451 and \$5,300?

Although the tripartisan plan says it only contains a gap of \$250, in reality it is actually a gap of \$1,850 because the first threshold includes the combined expenditures of seniors and the Government, while the second only refers to the senior's out-of-pocket expenses.

How can I explain to Mildred Owens that no other American but Medicare beneficiaries will have this gap in coverage? Members of Congress and Federal employees do not face a gap in prescription drug coverage, nor do non-Federal retirees or employees. This gap in coverage for seniors who use more prescription drugs than any other population group in our country is not only unfair, it is simply unreasonable.

Further, this gap in coverage is opposed by the AARP, which counts about 350,000 Arkansans in their nationwide membership. AARP has surveyed their membership on the value of a prescription drug benefit and has identified five characteristics that any prescription drug benefit must include in order to attract the enrollees it needs. One of those characteristics is a benefit that does not expose beneficiaries to a gap in insurance coverage.

Mr. President, I ask unanimous consent to print a letter from the Arkansas AARP State chapter in the RECORD that shows how the tripartisan bill fails to meet the kitchen-table test that their Members will likely use when determining if the drug benefit is a good buy.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AARP,
Washington, DC, July 12, 2002.

Hon. BLANCHE L. LINCOLN,
U.S. Senate,
Washington, DC.

DEAR SENATOR LINCOLN: Medicare beneficiaries cannot wait any longer for protection against the increasing cost of prescription drugs. The 439,000 Medicare beneficiaries in Arkansas need an affordable prescription drug benefit enacted into law this year.

Currently, about 13 million Medicare beneficiaries nationwide lack prescription drug coverage for the entire year and about 16 million lack coverage for some point during the year. State pharmacy assistance programs often provide some prescription drug benefits to low to moderate-income beneficiaries. However, as you know, Arkansas does not even have such a program to help meet the needs of low-income beneficiaries in the state.

The prescription drug legislation recently passed by the House of Representatives begins to move the Medicare program one step closer to providing millions of older Ameri-

cans and people with disabilities with some help against the rising costs of prescription drugs. But more needs to be done.

We know from our membership that they will assess the value of a prescription drug benefit by adding up the premium, coinsurance and deductible to determine if it is a good buy. We believe that in order for a voluntary Medicare prescription drug benefit to pass this "kitchen table test" and attract enough enrollee it should:

Provide an affordable benefit as a permanent part of Medicare's benefit package;

Keep the monthly premium to no more than \$35;

Ensure reasonable and stable cost-sharing for beneficiaries;

Ensure that there are no gaps in coverage that leave beneficiaries vulnerable;

Be voluntary and available to all beneficiaries no matter where they live;

Help to bring down the soaring costs of prescription drugs; and

Protect low-income beneficiaries.

It is critical that the Senate pass a Medicare prescription drug bill this month that meets these goals. The 205,000 AARP households in Arkansas are counting on your support for a prescription drug benefit at least as good as the Graham-Miller proposal.

If you have any questions please call one of us or have your staff call David Certner, Director of our Federal Affairs Department, at (202) 434-3750.

Sincerely,

WILLIAM D. NOVELLI,
*Executive Director and
CEO.*

CECIL MALONE,
*AARP Arkansas State
President.*

MARIA REYNOLDS-DIAZ,
*AARP Arkansas State
Director.*

Mrs. LINCOLN. Mr. President, I am also hopeful that a compromise on the Medicare prescription drug benefit is imminent. I am ever optimistic that we can all agree on a good basic solution at the end of the day. We must not fall into the trap of all talk and no action once again. For the almost 4 years I have served in the Senate, I have continually gone home to my State of Arkansas, talked to seniors across our great State, and assured them that the Senate would act on a prescription drug package.

I can no longer in good faith continue to simply talk about the benefit that is so needed. Our parents and our grandparents are depending on us. It would be a national tragedy to let them all down.

We have talked and talked about it for years. Let us act this year and in this session. Let us not adjourn until we pass a Medicare prescription drug benefit that is meaningful and affordable for all seniors across this great country, no matter where they live.

ADDITIONAL STATEMENTS

FIFTIETH ANNIVERSARY OF THE ESTONIAN AMERICAN NATIONAL COUNCIL

● Ms. MIKULSKI. Mr. President, today I pay tribute to the 50th anniversary of the Estonian American National Council. On July 19, 1952, Estonian Americans founded this Council to preserve

the Estonian cultural heritage. For 50 years, it has provided an independent voice for the Estonian people in their successful campaign for human rights and democracy in their homeland.

The Estonian American National Council combined the strong spirits of America and Estonia in its fight for Estonian independence. Forcibly annexed and occupied by the Soviet Union in 1940, Estonians could not speak freely for themselves in their own homeland. But as the leader of the free world, the United States never recognized the Soviet Union's oppressive regimes in Estonia or its Baltic neighbors, Latvia, and Lithuania. So with the start of the cold war, Americans of Estonian descent established their own organiza-

tion. Half a century later, I visited Estonia. I was so happy to see the tremendous strides the country was making toward developing its democratic and market-based systems. Estonia is proving its abilities through high-tech initiatives in everything from cellular phones to paperless government. I also appreciate the Baltic States' renewed senses of culture while respecting the rights of Russian-speaking minorities.

As a founding member of the Senate Baltic Freedom Caucus, I applaud the work of the Estonian American National Council, a critical member of the Joint Baltic American National Committee. Together, America, Estonia and the other Baltic States are doing all they can in the war against terrorism. With America's support, Estonia, Lithuania, and Latvia are already contributing to our mutual security by developing modern armed forces, air surveillance systems, and participating in peacekeeping activities. I believe Estonia and its Baltic partners will make a wonderful contribution to NATO.

Since Estonia achieved independence in 1991, the Estonian American National Council has been instrumental in bringing America and Estonia together to make both countries more secure. The council has funded scholarships, schools, cultural activities, youth programs and exchange missions that have enhanced the ties that it began to build between America and Estonia many years ago. I am proud of the partnerships Maryland had built with Estonia through our National Guard and their Armed Forces, and the trade between our great cities and ports.

Everywhere I look, America's interest in strengthening its ties with Estonia and the other Baltic States is growing. I congratulate the council on its 50th anniversary, and I send my best wishes to the Estonia American community in Maryland and nationwide. You can count on me to continue to help promote a closer and more comprehensive relationship between the United States and Estonia. I ask my colleagues to join me in congratulating the Estonian American National Council on its contributions to America and Estonia for the last 50 years.●

LOCAL LAW ENFORCEMENT ACT OF 2001

● Mr. SMITH of Oregon. Mr. President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY in March of last year. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred September 17, 1997, in Chicago, IL. Two minors pushed a gay man down a flight of stairs because of his sexual orientation. The assailants used anti-gay obscenities during the attack.

I believe that government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.●

MEASURES REFERRED

The following bill was read the first and the second times by unanimous consent, and referred as indicated:

H.R. 5118. An act to provide for enhanced penalties for accounting and auditing improprieties at publicly traded companies, and for other purposes; to the Committee on the Judiciary.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-8005. A communication from the Director, Office of Personnel Management, transmitting, pursuant to law, the Report on Federal Agencies' Use of the Physicians' Comparability Allowance (PCA) Program for 2002; to the Committee on Governmental Affairs.

EC-8006. A communication from the Chair of the Board of Directors, Corporation for Public Broadcasting, transmitting, pursuant to law, the report of the Office of the Inspector General for the period October 1, 2001 through March 31, 2002; to the Committee on Governmental Affairs.

EC-8007. A communication from Chairman of the Federal Housing Finance Board, transmitting, pursuant to law, the report of the Office of the Inspector General for the period from October 1, 2001 through March 31, 2002; to the Committee on Governmental Affairs.

EC-8008. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14-404, "Tax Clarity and Recorder of Deeds Temporary Act of 2002"; to the Committee on Governmental Affairs.

EC-8009. A communication from the Chairman of the Broadcasting Board of Governors, transmitting, pursuant to law, the report of the Office of the Inspector General for the period from October 1, 2001 through March 31, 2002; to the Committee on Governmental Affairs.

EC-8010. A communication from the Director, Regulations Policy and Management

Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Sunscreen Drug Products for Over-the-Counter Human Use; Final Monograph; Technical Amendment" (RIN0910-AA01) received on July 16, 2002; to the Committee on Health, Education, Labor, and Pensions.

EC-8011. A communication from the Director, Corporation Policy and Research Department, Pension Benefit Guaranty Corporation, transmitting, pursuant to law, the report of a rule entitled "Benefits Payable in Terminated Single-Employer Plans; Allocation of Assets in Single-Employer Plans; Interest Assumptions for Valuing and Paying Benefits" received on July 16, 2002; to the Committee on Health, Education, Labor, and Pensions.

EC-8012. A communication from the Chief Executive Officer, Corporation for National and Community Service, transmitting, pursuant to law, the report of a vacancy in the position of Inspector General, received on June 26, 2002 referred jointly, pursuant to the order of January 30, 1975 as modified by the order of April 11, 1986, to the Committees on Health, Education, Labor, and Pensions; and Governmental Affairs.

EC-8013. A communication from the Chief of the Regulations Branch, Customs Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Import Restrictions Imposed on Pre-Classical and Classical Archaeological Material Originating in Cyprus" (RIN1515-AC86) received on July 16, 2002; to the Committee on Finance.

EC-8014. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Modification of Rev. Proc. 96-13" (Rev. Proc. 2002-52) received on July 14, 2002; to the Committee on Finance.

EC-8015. A communication from the Acting Director, Office of Regulatory Law, Board of Veterans' Affairs, Department of Veterans' Affairs, transmitting, pursuant to law, the report of a rule entitled "Board of Veterans' Appeals: Rules of Practice—Effect of Procedural Defects in Motions for Revision of Decisions on the Grounds of Clear and Unmistakable Error" (RIN2900-AK74) received on July 14, 2002; to the Committee on Veterans' Affairs.

EC-8016. A communication from the Acting Director, Office of Regulatory Law, Board of Veterans' Affairs, Department of Veterans' Affairs, transmitting, pursuant to law, the report of a rule entitled "Adjudication; Fiduciary Activities—Nomenclature Changes" (RIN2900-AL10) received on July 14, 2002; to the Committee on Veterans' Affairs.

EC-8017. A communication from the Acting Director, Office of Regulatory Law, Board of Veterans' Affairs, Department of Veterans' Affairs, transmitting, pursuant to law, the report of a rule entitled "Policy Regarding Participation in Natural Practitioner Data Bank" (RIN2900-AJ76) received on July 14, 2002; to the Committee on Veterans' Affairs.

EC-8018. A communication from the Director, Office of Standards, Regulations and Variances, Mine Safety and Health Administration, transmitting, pursuant to law, the report of a rule entitled "Hazard Communication (HazCom)" (RIN1219-AA47) received on July 14, 2002; to the Committee on Energy and Natural Resources.

EC-8019. A communication from the Assistant Secretary, Land and Minerals Management, Engineering and Operations Division, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Prospecting for Minerals Other Than Oil,

Gas, and Sulphur on the Outer Continental Shelf" (RIN1010-AC48) received on July 16, 2002; to the Committee on Energy and Natural Resources.

EC-8020. A communication from the Assistant Secretary, Land and Minerals Management, Engineering and Operations Division, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Oil and Gas and Sulphur Operations in the Outer Continental Shelf Document Incorporated by Reference—API RP 14C" (RIN1010-AC93) received on July 16, 2002; to the Committee on Energy and Natural Resources.

EC-8021. A communication from the Secretary of the Interior, transmitting, pursuant to law, the 2001 Annual Report of the Office of Surface Mining (OSM); to the Committee on Energy and Natural Resources.

EC-8022. A communication from the Register Liaison Officer, Office of the Secretary, Department of Defense, transmitting, pursuant to law, the report of a rule entitled "TRICARE Partial Implementation of Pharmacy Benefits; Implementation of National Defense Authorization Act for Fiscal Year 2001" (RIN0720-AA62) received on July 16, 2002; to the Committee on Armed Services.

EC-8023. A communication from the Deputy Secretary of Defense, transmitting, pursuant to law, a report on outreach to Gulf War veterans, the revision of Physical Evaluation Board criteria and the review of records and re-evaluation of the ratings of previously discharged Gulf War veterans for calendar year 2001; to the Committee on Armed Services.

EC-8024. A communication from the Chief, Programs and Legislation Division, Office of Legislative Liaison, Department of the Air Force, transmitting, pursuant to law, a report relative to initiating a standard cost comparison of the Aircraft Maintenance and Support Activities at Edwards Air Force Base, California; to the Committee on Armed Services.

EC-8025. A communication from the Under Secretary of Defense, Acquisition, Technology, and Logistics, transmitting, pursuant to law, reports that set out the current amount of outstanding contingent liabilities of the United States for vessels insured under the authority of title XII of the Merchant Marine Act of 1936, and for aircraft insured under the authority of chapter 433 of Title 49, United States Code; to the Committee on Armed Services.

EC-8026. A communication from the Under Secretary of Defense, Acquisition, Technology, and Logistics, transmitting, pursuant to law, the annual report detailing test and evaluation activities of the Foreign Comparative Testing (FCT) Program for Fiscal Year 2001; to the Committee on Armed Services.

EC-8027. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Captain of the Port Chicago Zone, Lake Michigan" (RIN2115-AA97)(2002-0142) received on July 16, 2002; to the Committee on Commerce, Science, and Transportation.

EC-8028. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Seabrook Nuclear Power Plant, Seabrook, NH" (RIN2115-AA97)(2002-0136) received on July 16, 2002; to the Committee on Commerce, Science, and Transportation.

EC-8029. A communication from the Chief of Regulations and Administrative Law,

United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; High Interest Vessel Transits, Narragansett Bay, Providence River, and Tounton River, Rhode Island" (RIN2115-AA97)(2002-0137) received on July 16, 2002; to the Committee on Commerce, Science, and Transportation.

EC-8030. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Captain of the Port of Detroit Zone, Selfridge Air National Guard Base, Lake St. Clair" (RIN2115-AA97)(2002-0138) received on July 16, 2002; to the Committee on Commerce, Science, and Transportation.

EC-8031. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Annual Fireworks Event in the Captain of the Port Milwaukee Zone" (RIN2115-AA97)(2002-0139) received on July 16, 2002; to the Committee on Commerce, Science, and Transportation.

EC-8032. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Limited Service Domestic Voyage Load Lines for River Barges on Lake Michigan" (RIN2115-AA97)(2002-0132) received on July 16, 2002; to the Committee on Commerce, Science, and Transportation.

EC-8033. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Waters Adjacent to San Onofre, San Diego County, CA" (RIN2115-AA97)(2002-0133) received on July 16, 2002; to the Committee on Commerce, Science, and Transportation.

EC-8034. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Ports of Houston and Galveston, TX" (RIN2115-AA97)(2002-0134) received on July 16, 2002; to the Committee on Commerce, Science, and Transportation.

EC-8035. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; St. Croix, U.S. Virgin Islands" (RIN2115-AA97)(2002-0135) received on July 16, 2002; to the Committee on Commerce, Science, and Transportation.

EC-8036. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Missouri River, Mile Marker 646.0 to 645.6, Fort Calhoun, Nebraska" (RIN2115-AA97)(2002-0153) received on July 16, 2002; to the Committee on Commerce, Science, and Transportation.

EC-8037. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Upper Mississippi River, Mile Marker 507.3 to 506.3, Left Descending Bank, Cordova, IL" (RIN2115-

AA97)(2002-0152) received on July 16, 2002; to the Committee on Commerce, Science, and Transportation.

EC-8038. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; San Francisco Bay, San Francisco, CA" (RIN2115-AA97)(2002-0151) received on July 16, 2002; to the Committee on Commerce, Science, and Transportation.

EC-8039. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Captain of the Port Toledo Zone, Lake Erie" (RIN2115-AA97)(2002-0164) received on July 16, 2002; to the Committee on Commerce, Science, and Transportation.

EC-8040. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Drawbridge Regulations; Pelican Island Causeway, Calveston Channel, TX" (RIN2115-AE47)(2002-0068) received on July 16, 2002; to the Committee on Commerce, Science, and Transportation.

EC-8041. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Regatta Regulations; Beaufort Water Festival July 12th Fireworks Display, Beaufort River, Beaufort, SC" (RIN2115-AE46)(2002-0025) received on July 16, 2002; to the Committee on Commerce, Science, and Transportation.

EC-8042. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; High Interest Vessels—Boston Harbor, Waymouth Fore River, and Salem Harbor, Massachusetts" (RIN2115-AA97)(2002-0141) received on July 16, 2002; to the Committee on Commerce, Science, and Transportation.

EC-8043. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Lake Ontario, Oswego, NY" (RIN2115-AA97)(2002-0154) received on July 16, 2002; to the Committee on Commerce, Science, and Transportation.

EC-8044. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Liquefied Natural Gas Carrier Transits and Anchorage Operations, Boston Marine Inspection Zone and Captain of the Port Zone" (RIN2115-AA97)(2002-0140) received on July 16, 2002; to the Committee on Commerce, Science, and Transportation.

EC-8045. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Sag Harbor Fireworks Display, Sag Harbor, NY" (RIN2115-AA97)(2002-0143) received on July 16, 2002; to the Committee on Commerce, Science, and Transportation.

EC-8046. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Drawbridge Regulations; Chicago River" (RIN2115-

AE47)(2002-0066)) received on July 16, 2002; to the Committee on Commerce, Science, and Transportation.

EC-8047. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Drawbridge Regulations; Lady's Island Bridge, Atlantic Intracoastal Waterway (AIWW), Beaufort, SC" ((RIN2115-AE47)(2002-0067)) received on July 16, 2002; to the Committee on Commerce, Science, and Transportation.

EC-8048. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Lake Huron, Harbor Beach, MI" ((RIN2115-AA97)(2002-0147)) received on July 16, 2002; to the Committee on Commerce, Science, and Transportation.

EC-8049. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Ohio River Miles 355.5 to 356.5, Portsmouth, Ohio" ((RIN2115-AA97)(2002-0148)) received on July 16, 2002; to the Committee on Commerce, Science, and Transportation.

EC-8050. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Port Hueneme Harbor, Ventura County, CA" ((RIN2115-AA97)(2002-0149)) received on July 16, 2002; to the Committee on Commerce, Science, and Transportation.

EC-8051. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Missouri River, Mile Marker 532.9 to 532.5, Brownsville, Nebraska" ((RIN2115-AA97)(2002-0150)) received on July 16, 2002; to the Committee on Commerce, Science, and Transportation.

EC-8052. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Boston and Salem Harbors, MA" ((RIN2115-AA97)(2002-0145)) received on July 16, 2002; to the Committee on Commerce, Science, and Transportation.

EC-8053. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Port of Palm Beach, Palm Beach, FL; Port Everglades, Fort Lauderdale, FL; Port of Miami, Miami, FL, and Port of Key West, Key West, FL; Hutchinson Island Power Plant, St. Lucie, FL, and Turkey Point Power Plant, Florida City, FL" ((RIN2115-AA97)(2002-0144)) received on July 16, 2002; to the Committee on Commerce, Science, and Transportation.

EC-8054. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Seafair Blue Angels Performance, Lake Washington, WA" ((RIN2115-AA97)(2002-0146)) received on July 16, 2002; to the Committee on Commerce, Science, and Transportation.

EC-8055. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Regatta Regulations; Deerfield Beach Super Boat Race, Deerfield Beach, FL" ((RIN2115-AE46)(2002-0026)) received on July 16, 2002; to the Committee on Commerce, Science, and Transportation.

EC-8056. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Lake Michigan, Point Beach Nuclear Power Plant" ((RIN2115-AA97)(2002-0157)) received on July 16, 2002; to the Committee on Commerce, Science, and Transportation.

EC-8057. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Revise Options for Responding to Notices of Violations" ((RIN2115-AG15)(2002-0001)) received on July 16, 2002; to the Committee on Commerce, Science, and Transportation.

EC-8058. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Saint Lawrence River, Massena, NY" ((RIN2115-AA97)(2002-0155)) received on July 16, 2002; to the Committee on Commerce, Science, and Transportation.

EC-8059. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Lake Michigan, Kewaunee Nuclear Power Plant" ((RIN2115-AA97)(2002-0156)) received on July 16, 2002; to the Committee on Commerce, Science, and Transportation.

EC-8060. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; New York Marine Inspection Zone and Captain of the Port Zone" ((RIN2115-AA97)(2002-0161)) received on July 16, 2002; to the Committee on Commerce, Science, and Transportation.

EC-8061. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Cruise Ships, Port of San Diego, CA" ((RIN2115-AA97)(2002-0160)) received on July 16, 2002; to the Committee on Commerce, Science, and Transportation.

EC-8062. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Calvert Cliffs Nuclear Power Plant, Chesapeake Bay, Calvert County, MD" ((RIN2115-AA97)(2002-0159)) received on July 16, 2002; to the Committee on Commerce, Science, and Transportation.

EC-8063. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Lake Ontario, Rochester, NY" ((RIN2115-AA97)(2002-0158)) received on July 16, 2002; to the Committee on Commerce, Science, and Transportation.

EC-8064. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Drawbridge Regu-

lations; Inner Harbor Navigation Canal, LA" ((RIN2115-AE47)(2002-0071)) received on July 16, 2002; to the Committee on Commerce, Science, and Transportation.

EC-8065. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Drawbridge Regulations; Sanibel Causeway Bridge, Okeechobee Waterway, Punta Rassa, FL" ((RIN2115-AE47)(2002-0070)) received on July 16, 2002; to the Committee on Commerce, Science, and Transportation.

EC-8066. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Drawbridge Regulations; Commercial Boulevard Bridge (SR 870), Atlantic Intracoastal Waterway, Mile 1059.0, Lauderdale-by-the-Sea, Broward County, FL" ((RIN2115-AE47)(2002-0069)) received on July 16, 2002; to the Committee on Commerce, Science, and Transportation.

EC-8067. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Wearing of Personal Flotation Devices (PFDs) by Certain Children aboard Recreational Vessels" ((RIN2115-AG04)(2002-0003)) received on July 16, 2002; to the Committee on Commerce, Science, and Transportation.

EC-8068. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Wearing of Personal Flotation Devices (PFDs) by Certain Children aboard Recreational Vessels" ((RIN2115-AG04)(2002-0002)) received on July 16, 2002; to the Committee on Commerce, Science, and Transportation.

EC-8069. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Gary Air and Water Show, Lake Michigan, Gary, IN" ((RIN2115-AA97)(2002-0163)) received on July 16, 2002; to the Committee on Commerce, Science, and Transportation.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BYRD, from the Committee on Appropriations, without amendment:

S. Res. 304. An original resolution encouraging the Senate Committee on Appropriations to report thirteen, fiscally responsible, bipartisan appropriations bills to the Senate not later than July 31, 2002.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. ENZI (for himself, Mr. LIEBERMAN, Mr. ALLEN, Mrs. BOXER, Mr. BURNS, Mr. FRIST, and Mr. ENSIGN):

S. 2760. A bill to direct the Securities and Exchange Commission to conduct a study and make recommendations regarding the accounting treatment of stock options for purposes of the Federal securities laws; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. FEINGOLD:

S. 2761. A bill to amend the Internal Revenue Code of 1986 to provide that reimbursements for costs of using passenger automobiles for charitable and other organizations are excluded from gross income, and for other purposes; to the Committee on Finance.

By Mr. THOMAS (for himself, Mr. ENZI, and Mr. HAGEL):

S. 2763. A bill to amend the Internal Revenue Code of 1986 to provide involuntary conversion tax relief for producers forced to sell livestock due to weather-related conditions or Federal land management agency policy or action, and for other purposes; to the Committee on Finance.

By Mrs. FEINSTEIN (for herself, Mr. HUTCHINSON, and Mr. KOHL):

S. 2763. A bill to respond to the illegal production, distribution, and use of methamphetamines in the United States, and for other purposes; to the Committee on the Judiciary.

By Mr. MILLER:

S. 2764. A bill to eliminate the Federal quota and price support programs for tobacco, to compensate quota holder and active producers for the loss of tobacco quota asset value, to establish a permanent advisory board to determine and describe the physical characteristics of domestic and imported tobacco, and for other purposes; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BYRD:

S. Res. 304. An original resolution encouraging the Senate Committee on Appropriations to report thirteen, fiscally responsible, bipartisan appropriations bills to the Senate not later than July 31, 2002; from the Committee on Appropriations; placed on the calendar.

ADDITIONAL COSPONSORS

S. 486

At the request of Mr. LEAHY, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 486, a bill to reduce the risk that innocent persons may be executed, and for other purposes.

S. 668

At the request of Mr. AKAKA, the name of the Senator from New Jersey (Mr. TORRICELLI) was added as a cosponsor of S. 668, a bill to amend the Animal Welfare Act to ensure that all dogs and cats used by research facilities are obtained legally.

S. 2047

At the request of Mr. BREAUX, the names of the Senator from North Dakota (Mr. DORGAN) and the Senator from Nebraska (Mr. NELSON) were added as cosponsors of S. 2047, a bill to amend the Internal Revenue Code of 1986 to allow distilled spirits wholesalers a credit against income tax for their cost of carrying Federal excise taxes prior to the sale of the product bearing the tax.

S. 2076

At the request of Mr. JOHNSON, his name was withdrawn as a cosponsor of S. 2076, a bill to prohibit the cloning of humans.

S. 2194

At the request of Mrs. FEINSTEIN, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 2194, a bill to hold accountable the Palestine Liberation Organization and the Palestinian Authority, and for other purposes.

S. 2268

At the request of Mr. MILLER, the names of the Senator from New Mexico (Mr. DOMENICI) and the Senator from Oklahoma (Mr. INHOFE) were added as cosponsors of S. 2268, a bill to amend the Act establishing the Department of Commerce to protect manufacturers and sellers in the firearms and ammunition industry from restrictions on interstate or foreign commerce.

S. 2667

At the request of Mr. DODD, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 2667, a bill to amend the Peace Corps Act to promote global acceptance of the principles of international peace and nonviolent coexistence among peoples of diverse cultures and systems of government, and for other purposes.

S. 2684

At the request of Mrs. CLINTON, the name of the Senator from New Hampshire (Mr. GREGG) was added as a cosponsor of S. 2684, a bill to amend the Atomic Energy Act of 1954 to establish a task force to identify legislative and administrative action that can be taken to ensure the security of sealed sources of radioactive material, and for other purposes.

S. 2727

At the request of Mr. AKAKA, the name of the Senator from Hawaii (Mr. INOUE) was added as a cosponsor of S. 2727, a bill to provide for the protection of paleontological resources on Federal lands, and for other purposes.

S. 2736

At the request of Mr. HAGEL, the name of the Senator from Pennsylvania (Mr. SANTORUM) was added as a cosponsor of S. 2736, a bill to amend title XVIII of the Social Security Act to provide medicare beneficiaries with a drug discount card that ensures access to affordable outpatient prescription drugs.

S. CON. RES. 128

At the request of Mr. DODD, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. Con. Res. 128, a concurrent resolution honoring the invention of modern air conditioning by Dr. Willis H. Carrier on the occasion of its 100th anniversary.

AMENDMENT NO. 4305

At the request of Ms. STABENOW, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of amendment No. 4305 proposed to S. 812, a bill to amend the Federal Food, Drug, and Cosmetic Act to provide greater access to affordable pharmaceuticals.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ENZI (for himself, Mr. LIEBERMAN, Mr. ALLEN, Mrs.

BOXER, Mr. BURNS, Mr. FRIST, and Mr. ENSIGN):

S. 2760. A bill to direct the Securities and Exchange Commission to conduct a study and make recommendations regarding the accounting treatment of stock options for purposes of the Federal securities laws; to the Committee on Banking, Housing, and Urban Affairs.

Mr. ENZI. Mr. President, I rise today to introduce the Enzi-Lieberman-Allen-Boxer amendment on stock options. Our bipartisan amendment helps solve many of the perceived problems with the issuance of stock options by giving the SEC a broad mandate to look into and analyze numerous issues concerning stock options, including disclosure, corporate governance, and the benefits and detriments of expensing stock options.

After its analysis, the SEC will be required to furnish recommendations, if any, for changes in corporate America's uses of stock options, and we envision that being done through FASB. We are not trying to tell FASB, the Federal Accounting Standards Board, how to do their work; we are trying to provide them with more information so they can make a consideration of that issue again.

I and the other original cosponsors of this bill have sent a letter to Chairman Harvey Pitt and the other Commissioners on the SEC asking them to initiate on their own the action items outlined in our bill and to make recommendations on these issues in the next 60 days. I hope they take such initiative.

Mr. President, I ask unanimous consent the letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,

Washington, DC, July 19, 2002.

Hon. HARVEY L. PITT, Chairman,
Hon. ISAAC C. HUNT, Jr., Commissioner,
Hon. CYNTHIA A. GLASSMAN, Commissioner,
Mr. ROBERT K. HERDMAN, Chief Accountant,
Securities and Exchange Commission, Washington, DC.

DEAR CHAIRMAN PITT, COMMISSIONERS HUNT AND GLASSMAN, AND MR. HERDMAN: We are writing to request that the Securities and Exchange Commission (SEC) analyze and propose recommendations, if needed, on issues regarding stock options. We have introduced legislation mandating such action by the Commission, but ask that you proceed before this legislation is enacted.

The legislation is the Stock Option Fairness and Accountability Act. This legislation focuses on key issues regarding stock options, which include stock option pricing models; disclosure to investors and shareholders; shareholder approval of stock option plans; and restrictions on senior management sale of stock. The bill also mandates a review of the benefits and detriments of any new options expensing rules on the productivity and performance of companies and start-up enterprises, the recruitment retention of skilled workers, and employees at various income levels, with particular focus

on the effect on rank-and-file employees and the income of women.

It is our view the debate on stock options has focused narrowly on the accounting of stock options, and failed to focus on other critical stock option policy issues. We seek to broaden the debate to ensure that Congress, the Commission, and other relevant agencies take action to eliminate any problems which might exist with stock options, while ensuring their benefits are retained.

We believe options should be preserved and protected because, when they are properly structured, they are incentives for productivity and growth. In most instances, they reflect America's best business values—the willingness to take business risks, the vision to develop new entrepreneurial companies and technologies, a way to broaden ownership and participation among employees, and a strong performance incentive for both management and employees. We should focus on strengthening stock option incentives and enabling them to yield even greater economic growth dividends for our economy.

In general, we believe the Senate should not be legislating detailed accounting or regulatory standards regarding stock options or other accounting issues. These are issues best left to the SEC and its expert staff. The Financial Accounting Standards Board (FASB) has independent authority to set accounting standards, and should continue to do so. That is why our legislation and this letter request that the Commission address all of these issues and make recommendations.

Regarding shareholder approval of stock option plans, a Special Committee of New York Stock Exchange recommended shareholder approval of all stock option plans, while the NASDAQ has recommended shareholder approval of any plan that includes officers and directors. We want the SEC to examine whether these measures are adequate, and whether any additional accountability to shareholders is needed.

Current disclosure requirements for stock options exist which focus on the potential cost of stock options when they are exercised, the potential dilution of earnings per share, and other issues. We believe the SEC should look at whether these disclosure rules should be strengthened in order to provide investors and shareholders more accurate and complete information.

We understand that restricting the sale of stock acquired through stock option plans is a complex and controversial issue. We ask you to review whether a need exists for imposition of a holding period for senior executives and whether the benefits of such a rule would outweigh the costs. Should you recommend such a rule, we suggest you also review whether any exemptions are necessary, given individuals may have a legitimate need to sell stock to raise cash to pay taxes on their options or for personal emergencies. We urge you to also consider whether a holding period might impose a special burden on small companies and start-up enterprises, where stock options form a greater proportion of employee compensation.

We appreciate the assistance of the Commission addressing these vital issues and promptly making recommendations. We believe we have presented you with a comprehensive agenda of stock option policy issues, which will ensure positive action is taken to restore investor and shareholder confidence, calm and markets, and prevent perceived problems associated with stock options. We look forward to receiving a response with your recommendations and plan for action within 60 days.

Sincerely,

Senator Mike Enzi, Senator Joseph Lieberman, Senator Barbara Boxer,

Senator Conrad Burns, Senator John Ensign, Senator George Allen, Senator Bill Frist.

Mr. ENZI. How did we get here, to this point of perhaps possibly legislating on stock options? The debate on stock options became heated over the last few months, following the accounting debacles of Enron, WorldCom, and Global Crossing. I think we can all agree that the use of stock options did not cause the demise of these companies, but nevertheless their use by these and other companies has become increasingly scrutinized during the current accounting debate and evidence of top executive abuse.

What initially raised everyone's attention to stock options was Enron. As we all know, Enron's executives and employees were issued numerous stock options. It is now clear that months before Enron filed for bankruptcy, executives who were aware of the true condition of the company, exercised millions of dollars of their options. Now, Enron employees—kept in the dark on company finances—are left with worthless Enron stock and retirement savings. While these Enron executives absconded with money from the sell of stock options, we all know the financial collapse of Enron had little to do with its accounting procedures on stock options. Enron went bankrupt. Nevertheless, concerns about stock option use by corporations have become magnified.

We all know that when properly used, stock options can be a marvelous opportunity for all employees. In addition, small businesses and startup companies use stock options as an incentive and sometimes the only means to attract qualified employees.

There have been many suggestions on what will stop future Enrons, and included in that debate has been a discussion on improving the accounting practices and other issues concerning stock options. Some members have come up with some creative and not so creative ideas on how to improve their use.

Some have not considered how their ideas will affect rank-and-file employees, while others have kept that as their primary consideration. Some members have proposed setting a new expensing standard or directing the Federal Accounting Standards Board to take some specific action in setting new expensing rules. But, these amendments have pre-ordained what the solution to stock options will be.

Members promoting these amendments are furnishing their own conclusions. They mandate either codification of new expensing rules, or direct the Federal Accounting Standards Board, known as FASB, to require stock option expensing at the time of grant or exercise. This is a conclusion some of us do not believe should be made by non-experts in Congress, without careful analysis.

Our bipartisan amendment is different. It doesn't preordain what the solution to stock options will be. In-

stead, it directs the SEC to analyze the treatment of stock options in several categories, not just stock option expensing, and lend its superior expertise in furnishing a report and making useful recommendations.

This is a smart amendment because 99 non-accountant Senators, and one accountant Senator, all without expertise in securities accounting and law, have no business making a definitive decision on what the answer to stock option problems should be. Instead, the SEC should analyze the problem and make recommendations on what is needed.

Let me get to the specifics of our amendment. First, it requires an analysis of the accounting treatment of employee stock options, including the accuracy of available stock option pricing models. What are these models?

Currently, companies estimate the value of granted stock options using something called the Black-Scholes model. This is because they do not know what the future value of their stock will be when the options are actually exercised and sold. So they make an educated guess with the Black-Scholes model.

However, many believe the current practice of using the Black-Scholes method to value stock options, as currently used on footnotes, is fatally flawed. This method will be just as flawed if it must be used for expensing stock options at the time of grant. This amendment directs the SEC to look at the accuracy of this and other pricing models.

Second, our amendment directs the SEC to analyze the adequacy of current disclosure requirements to investors and shareholders on stock options. The SEC needs to determine whether better disclosure provisions would solve the current, perceived problem with stock option reporting. The SEC can study what further disclosure and transparency provisions, if any, would be useful.

We do not know what the SEC's recommendations might be. They might include a recommendation for user-friendly disclosure in clear, plain English with graphs and charts, which are comparable with other company disclosures. They might recommend increased quarterly reporting on certain information.

Even high profile financial celebrities have differing view on expensing and disclosure. Like me, Secretary O'Neill has advocated fuller disclosure as a means to cure the present perceived problems with the information provided to investors and shareholders in footnotes on company financial statements, rather than expensing. Others, like Warren Buffet, have said fuller disclosure and transparency will not cure these problems, and Congress should do something about expensing. Alan Greenspan believes expensing of stock options at the time of grant is needed, but that Congress should not be the one deciding this or setting accounting standards.

Given these differing views by financial heavy weights like Secretary O'Neill, Greenspan and Buffett, it makes sense to let the SEC analyze this issue and make the determination of what, if any, disclosure improvements are necessary, taking into account the effect on all affected parties—companies, shareholders, investors, and rank-and-file employees.

Next, our amendment would direct the SEC to analyze the adequacy of corporate governance requirements on stock options, including the usefulness of having shareholders approve stock option plans.

Previously, I advocated shareholder approval of stock option issuance to top corporate executives to prevent them from abusing stock options. Now, I and others of us are leaving it to the SEC to determine whether this will prevent stock option abuse.

Our bipartisan amendment also requires an analysis of the need, if any, for stock holding period requirements for senior executives. Some Senators have advocated a holding period during which top executives cannot sell their stock options. One suggestion was that a 90-day cooling off period occur before a top executive can sell his stock. Another suggestion was that these executives could not sell their stock until they left the company and a two-year period expired.

These suggestions pose a dramatic solution which needs more study by the SEC. These are not provisions to be taken lightly, nor drafted hurriedly by Senators. This type of amendment could possibly help prevent abuses, or have the opposite effect of chilling the future use of stock options entirely. Because I do not know what the effect of this will be and whether it will prevent executive fraud and abuse, I am at least willing to let the SEC study it to see if there is any merit to it.

And finally, our amendment directs the SEC to look at the benefit and detriment of any new options expensing rules. So, instead of Senators, who have little knowledge of securities accounting, making an accounting decision on stock option expensing, we are leaving it in the hands of the SEC to see how expensing will affect all segments related to stock options.

Our bipartisan amendment directs the SEC to look at the benefit and detriment of stock option expensing on companies and start-up enterprises. Specifically, it requires the SEC to look at what stock options expensing would do to the productivity and performance of all sizes of companies, and start-up enterprises.

I am particularly concerned about the effect of expensing stock options on small companies and start-up enterprises. Many small businesses and start-up companies cannot afford to offer the salaries larger companies give, so they offer stock options as an incentive to attract highly-skilled employees. In addition, our amendment would require the SEC to look at the

benefits and detriments of stock option expensing on the recruitment and retention of skilled workers.

Currently, employees who risk working for start-up companies have the ability to make much more money than through traditional methods of payment by salaries or wages. Those who stay with the company tend to have a vested interest in the company through the issuance of stock options. Stock options may be the very reason that some employees start with a company and stay with it. We are asking the SEC to look at the issue of what effect stock option expensing will have on future recruitment and retention of employees.

Finally, and most importantly, our amendment asks the SEC to look at the benefits and detriments of stock options on employees at all income levels, with particular emphasis on rank-and-file employees.

These are some of the questions the SEC needs to look at and make a recommendation on.

Whatever we do, we need to make sure the cure is not worse than the disease. We should not rush to pass something just for the sake of legislating on stock options. Let us step back and see what recommendations the SEC makes. Then, with cooler heads, perhaps we can prevail in getting rules and regulations on stock options which are truly needed, and not merely an overreaction to the current atmosphere of Enron.

I would hate to see any hastily decision chill the ability of companies to issue stock options to millions of rank-and-file employees. Or chill new start-up companies' use of stock options to attract employees. At the same time, we have to stop future abuses by corporate executives who thumb their noses while plundering companies resources.

For these reasons, I ask you to vote in favor of the Enzi-Lieberman-Allen-Boxer Amendment.

By Mr. FEINGOLD:

S. 2761. A bill to amend the Internal Revenue Code of 1986 to provide that reimbursements for costs of using passenger automobiles for charitable and other organizations are excluded from gross income, and for other purposes; to the Committee on Finance.

Mr. FEINGOLD. Mr. President, I am pleased to offer legislation today that will increase the mileage reimbursement rate for volunteers.

Under current law, when volunteers use their cars for charitable purposes, the volunteers may be reimbursed up to 14 cents per mile for their donated services without triggering a tax consequence for either the organizations or the volunteers. If the charitable organization reimburses any more than that, they are required to file an information return indicating the amount, and the volunteers must include the amount over 14 cents per mile in their taxable income. By contrast, the mile-

age reimbursement level currently permitted for businesses is 36.5 cents per mile.

At a time when government is asking volunteers and volunteer organizations to bear a greater burden of delivering essential services, the 14 cents per mile limit is posing a very real hardship.

I have heard from a number of groups in Wisconsin in recent weeks on the need to increase this reimbursement limit. One organization, the Portage County Department on Aging, explained just how important volunteer drivers are to their ability to provide services to seniors in that county. The Department on Aging reported that last year 54 volunteer drivers delivered meals to homes and transported people to medical appointments, meal sites, and other essential services. The Department noted that their volunteer drivers provided 4,676 rides, and drove nearly 126,000 miles. They also delivered 9,385 home-delivered meals, and nearly two-thirds of the drivers logged more than 100 miles per month in providing these needed services. Altogether, volunteers donated over 5,200 hours last year, and as the Department notes, at the rate of minimum wage, that amounts to over \$27,000, not including other benefits.

The senior meals program is one of the most vital services provided under the Older Americans Act, and ensuring that meals can be delivered to seniors or that seniors can be taken to meal sites is an essential part of that program. Unfortunately, Federal support for the senior nutrition programs has stagnated in recent years. This has increased pressure on local programs to leverage more volunteer services to make up for lagging federal support. The 14 cent per mile reimbursement limit, though, increasingly poses a barrier to obtaining those contributions. Portage County reports that the many of their volunteers cannot afford to offer their services under such a restriction. And if volunteers cannot be found, their services will have to be replaced by contracting with a provider, greatly increasing costs to the Department, costs that come directly out of the pot of funds available to pay for meals and other services.

By contrast, businesses do not face this restrictive mileage reimbursement limit. The comparable mileage rate for someone who works for a business is currently 36.5 cents per mile. This disparity means that a business hired to deliver the same meals delivered by volunteers for Portage County may reimburse their employees over double the amount permitted the volunteer without a tax consequence.

This doesn't make sense.

Moreover, the 14 cent per mile volunteer reimbursement limit is outdated. According to the Congressional Research Service, Congress first set a reimbursement rate of 12 cents per mile as part of the Deficit Reduction Act of 1984, and did not increase it until 1997, when the level was raised slightly, to

14 cents per mile, as part of the Taxpayer Relief Act of 1997.

The bill I am introducing today raises the limit on volunteer mileage reimbursement to the level permitted to businesses. It is essentially the same provision passed by the Senate as part of a tax bill passed in 1999 that was vetoed by President Clinton. At the time of the 1999 measure, the Joint Committee on Taxation, JCT, estimated that the mileage reimbursement provision would result in the loss of \$1 million over the five year fiscal period from 1999 to 2004. The revenue loss was so small that the JCT did not make the estimate on a year by year basis.

Though the revenue loss is small, I have also included an offset to make the measure deficit neutral by including a provision that would impose a civil penalty of up to \$5,000 on failure to report interest in foreign financial transactions. That provision was recently included in the CARE Act legislation by the Senate Finance Committee.

I urge my colleagues to support this measure. It will help ensure charitable organizations can continue to attract the volunteers that play such a critical role in helping to deliver services and it will simplify the tax code both for non-profit groups and the volunteers themselves.

I ask unanimous consent that the text of the legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2761

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. MILEAGE REIMBURSEMENTS TO CHARITABLE VOLUNTEERS EXCLUDED FROM GROSS INCOME.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after section 139 the following new section:

“SEC. 139A. MILEAGE REIMBURSEMENTS TO CHARITABLE VOLUNTEERS.

“(a) IN GENERAL.—Gross income of an individual does not include amounts received, from an organization described in section 170(c), as reimbursement of operating expenses with respect to use of a passenger automobile for the benefit of such organization. The preceding sentence shall apply only to the extent that such reimbursement would be deductible under this chapter if section 274(d) were applied—

“(1) by using the standard business mileage rate established under such section, and

“(2) as if the individual were an employee of an organization not described in section 170(c).

“(b) NO DOUBLE BENEFIT.—Subsection (a) shall not apply with respect to any expenses if the individual claims a deduction or credit for such expenses under any other provision of this title.

“(c) EXEMPTION FROM REPORTING REQUIREMENTS.—Section 6041 shall not apply with respect to reimbursements excluded from income under subsection (a).”

(b) CLERICAL AMENDMENT.—The table of sections for part III of subchapter B of chapter 1 of such Code is amended by inserting after the item relating to section 139 and inserting the following new item:

“Sec. 139A. Reimbursement for use of passenger automobile for charity.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 2. PENALTY ON FAILURE TO REPORT INTERESTS IN FOREIGN FINANCIAL ACCOUNTS.

(a) IN GENERAL.—Section 5321(a)(5) of title 31, United States Code, is amended to read as follows:

“(5) FOREIGN FINANCIAL AGENCY TRANSACTION VIOLATION.—

“(A) PENALTY AUTHORIZED.—The Secretary of the Treasury may impose a civil money penalty on any person who violates, or causes any violation of, any provision of section 5314.

“(B) AMOUNT OF PENALTY.—

“(i) IN GENERAL.—Except as provided in subparagraph (C), the amount of any civil penalty imposed under subparagraph (A) shall not exceed \$5,000.

“(ii) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under subparagraph (A) with respect to any violation if—

“(I) such violation was due to reasonable cause, and

“(II) the amount of the transaction or the balance in the account at the time of the transaction was properly reported.

“(C) WILLFUL VIOLATIONS.—In the case of any person willfully violating, or willfully causing any violation of, any provision of section 5314—

“(i) the maximum penalty under subparagraph (B)(i) shall be increased to the greater of—

“(I) \$25,000, or

“(II) the amount (not exceeding \$100,000) determined under subparagraph (D), and

“(ii) subparagraph (B)(ii) shall not apply.

“(D) AMOUNT.—The amount determined under this subparagraph is—

“(i) in the case of a violation involving a transaction, the amount of the transaction, or

“(ii) in the case of a violation involving a failure to report the existence of an account or any identifying information required to be provided with respect to an account, the balance in the account at the time of the violation.”

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to violations occurring after the date of the enactment of this Act.

By Mrs. FEINSTEIN (for herself,
Mr. HUTCHINSON, and Mr. KOHL):

S. 2763. A bill to respond to the illegal production distribution, and use of methamphetamines in the United States, and for other purposes; to the Committee on the Judiciary.

Mrs. FEINSTEIN. Mr. President, I rise today to introduce the “CLEAN-UP Meth Act,” a bill to address illegal and environmentally disastrous methamphetamine production.

I am pleased to submit this bill on behalf of myself, Senator HUTCHINSON of Arkansas, and Senator KOHL.

Essentially, this bill would help our Federal, State and local governments combat methamphetamine on a number of levels, from production to clean-up, prosecution to prevention.

The legislation would accomplish this with two key components: First, the bill would allocate \$125 million for important training and cleanup efforts,

including training local law enforcement to effectively clean up meth lab and dump sites. And second, we would make it much harder for meth dealers to get the precursor pseudoephedrine products necessary to make this illegal drug.

Once predominantly found in the American Southwest, methamphetamine's presence now stretches from coast to coast. Once predominantly found in rural areas, its harmful effects now extend from our smallest towns to our biggest cities.

For instance, the number of clandestine meth labs discovered in North Carolina has doubled every year for the past four years.

In New Orleans, police in the Jefferson district seized a total of 828 grams of methamphetamine in all of the year 2000. Last year, they seized more than ten times that amount, 9,003 grams, with a street value of more than \$1 million.

I'm sorry to say that my home State of California has been referred to as the “Colombia of meth production.” In fact, our State is known as the “source country” for the drug, producing roughly 80 percent of the Nation's methamphetamine supply. According to the DEA, 1,847 clandestine meth labs were found last year in California alone.

Each of these 1,847 labs in California, and each of the labs scattered around this Nation near schools, on farms, in trailer parks and in quiet suburban neighborhoods, creates a whole host of dangers and toxic waste.

The actual production of methamphetamine is harmful in a number of ways. First, the hazardous chemicals used in meth production are toxic, and long-term exposure is damaging. Furthermore, the materials can also be explosive and dangerous. Production using these volatile materials has resulted in countless accidents, houses and even apartment buildings burned to the ground, explosions that scatter chemicals and flames, and chemical reactions that cause untold damage to the individuals involved in meth production or simply living in the same household, individuals that, too often, include children.

Meth production also poses risks to the health of the surrounding public and environment. According to the National Drug Intelligence Center, NDIC, for every pound of meth produced, five to seven pounds of hazardous waste results from the production as well. Meth producers dump this waste anywhere and everywhere, from nearby ditches to public lands, from pits dug in the middle of a farm to rivers and lakes.

One private contractor hired to clean up meth-related hazardous dump sites in California responded to more than 500 calls in 2000 alone. And one of those dump sites was located along the banks of the California Aqueduct, which is a direct source of water for Los Angeles.

NDIC investigators have found also found toxic chemicals discarded into

household drains and storm drains. And the precursors used to make meth, and the toxic byproducts, may last for years in the soil. Decontaminating these sites is what makes clean-up so expensive, with costs ranging from \$5,000 to \$150,000 per site. State police in Baltimore, MD claim that its costs taxpayers nearly \$75,000 each time a meth lab must be cleaned up. According to the DEA, that agency spent more than \$22 million cleaning up 6,609 labs nationwide.

These extraordinary costs simply cannot be maintained on the local level without Federal support. These costs are proof of why Federal funding for such valuable efforts is necessary.

So the first thing this legislation would do is help law enforcement as well as the public pay these important costs, by providing millions to help clean-up labs and train law enforcement authorities to properly and safely do this important work.

Specifically, the CLEAN-UP Meth bill would provide: \$15 million for clean-up and remediation of meth contaminated lands managed by the Departments of Agriculture or Interior; \$15 million for Department of Agriculture grants to State and local governments and to private persons to clean up meth contaminated lands; \$20 million for OSHA grants to local law enforcement agencies for training and equipment for the safe identification, handling, clean-up and disposal of meth labs; and \$10 million for Department of Labor grants to local law enforcement agencies to help them comply with Federal laws regarding cleanup and disposal of meth labs.

Second, this legislation includes resources to help State and local officials prosecute meth offenses, educate the public, and study the effects of meth use.

Methamphetamine is so prevalent partly because it is simple to make and is profitable. Producers of meth range from people with advanced chemistry degrees to those who are self-taught. Recipes are easily available in books as well as over the Internet.

The drug does not have to be smuggled in across secured international borders. Fifty percent of the Nation's consumed methamphetamine is produced right here in our country. In fact, the basic ingredients can be found in your local pharmacy. These relatively inexpensive materials can be used to create a drug that fetches much higher prices. For example, ounce quantities are worth between \$1,500 and \$2,000 and can be sold to individual users for about \$100 a gram in crystallized powder form that can be smoked, snorted, swallowed or turned into liquid and injected. According to the Office of National Drug Control Policy, ONDCP, methamphetamine users spent nearly \$6 billion on the drug in 1999.

Methamphetamine is also highly addictive. Known on the street as crank, speed, ice and zip, methamphetamine is

cheaper than cocaine, more addictive than crack and causes more brain damage than heroin or alcohol. A single dose of this "poor man's cocaine" can keep a person awake for three to four days at a time and has been associated with paranoia and often violence. In California's Central Valley, methamphetamine has become the drug of choice and a principal cause of crime.

I firmly believe that law enforcement officials cannot effectively fight this drug and its harmful effects unless we provide them with the proper resources. Already this year, police in Oklahoma City have seized 115 meth labs. Law enforcement officials there have attributed these seizures to the support from Federal grants.

Keith Cain, a sheriff in Daviess County, KY also claims that Federal funding has proved to be crucial to the war against meth. According to Cain, "Without that money, we would not have been able to be as proactive as we've been."

Last year, the federally funded Central Valley High-Intensity Drug Trafficking project to restrict the supply of the chemical agents used in making the deadly drug was showing impressive results. A team of specialists from local drug units, the California Highway Patrol, DEA and FBI averaged one bust a week of the clandestine "super labs" that had made the Central Valley the national center for the production of methamphetamine. These triumphs were the direct result of federal funding and proof that allocating Federal resources is imperative to progress.

However, since September 11, agents have been removed from the project and transferred to anti-terrorism work. The lack of drug enforcement resources has created a strain on the project and threatens the progress it has had combating methamphetamine.

It would be a tragedy to California and the country if we lost all of the progress this program and others like it have made in the war on meth simply due to a lack of resources. Programs like this one have proven to be effective and need our continued support.

Our bill would provide: \$20 million for training of State and local prosecutors and law enforcement agents for prosecution of meth offenses, \$5 million of which will be dedicated for rural communities and \$2 million to reimburse the DEA for existing training programs; \$10 million additional for training at the DEA's Clandestine Laboratory Training Facility in Quantico, VA; \$2 million for the Department of Justice for the collection, aggregation and dissemination of meth lab seizure stats by the El Paso Intelligence Center, EPIC.

Third, we address the problems of our children. Raids and seizures of clandestine meth labs have been instrumental to the war on meth and have uncovered a number of alarming issues, but none more troubling than the effect meth production has on the children of meth dealers and their friends.

Drug rings and meth trafficking organizations found throughout the American West have been linked to Mexican drug traffickers as well as white supremacist groups. Last year, for instance, law enforcement authorities in Los Angeles County uncovered a sophisticated meth trafficking ring that includes suspects with tattoos of Nazi swastikas and belong to a local gang called the "Untouchables." During police raids of their meth labs and headquarters, agents seized nearly \$500,000 in cash and more than 100 high-powered weapons, including assault rifles and a grenade launcher.

Earlier this year, Central Valley investigators raided a methamphetamine super-lab in a farmhouse on the outskirts on Merced, CA. Inside, investigators found vats of toxic chemicals, large supplies of pseudoephedrine used in producing meth and three illegal firearms.

Yet, the most disturbing part of this story is that while the manufacturers were engaged in the potentially explosive process of extracting pure methamphetamine, four small children watched television in the next room. The children were taken to a local hospital and tested positive for methamphetamine contamination.

I would like to say that this is a rare case. However, this story is no exception. In 2001, 1,989 children were found in clandestine meth labs, materials storage sites and dump sites across the country.

The CLEAN-UP Meth Act would provide \$2.5 million for grants to states for treatment of children suffering adverse health impacts from meth-related exposure.

The bill also includes \$20 million for the development of anti-methamphetamine education programs in our nation's schools. Informing and educating our children on the dangers of this drug is the first step in reducing the number of new users of methamphetamine.

In addition to the funding provisions of the bill, which were introduced by Representative OSE in the House, this legislation also contains language to close the "Blister Pack Loophole" in current law, which currently allows meth dealers to purchase unlimited quantities of pseudoephedrine products, generally cold and sinus medication, as long as it is packaged in blister packs, those tin foil and plastic packages most of us buy these days, which require that each pill be separate rather than simply poured into a bottle.

Our current law limits retail sales of bottled pseudoephedrine to just 9 grams, because we found several years ago that meth dealers would go into a pharmacy, a Costco or other large store, sweep the shelves clean of cold medicine, bring the bottles back to the lab, cut off the tops of the bottles without even bothering to unscrew the caps instead, and pour the pills out as the first step to making meth.

When we passed the 9 gram threshold, and before that the 24-gram

threshold, for bottled pills, I made the case that if limits were placed on bottles only, meth dealers would simply start buying blister-packed pills instead. At the time, some argued that blister packs were simply too unwieldy for meth manufacturers to bother with, the process of popping individual pills out of each blister would be too time consuming. But we had evidence from California that dealers were already using these blister packs, so as a compromise we asked the DEA to conduct a nationwide study of whether blister packs posed a problem. Well, guess what, they do.

According to the report we requested from the DEA, which was finalized late last year, blister packaged pseudoephedrine products seized at clandestine methamphetamine laboratories and other locations, such as dumpsites, have involved seizures of over a million tablets. The seizure of so many blister packaged pseudoephedrine products shows convincingly that blister packaging is not a deterrent to ordinary, over-the-counter pseudoephedrine use in clandestine methamphetamine laboratories.

Indeed, the report even includes information about automated machines whose sole purpose is to remove pills from blister packs on a massive scale. These machines have been found in meth labs, along with hundreds, even thousands, of empty blister packs.

So clearly, what we argued in 1999, and in 1996, is true. Meth manufacturers are using blister packs, and something must be done to stop them as best we can.

In order to address this problem, DEA recommended in the report it released late last year that the blister pack loophole be closed, and that the current retail sales limit of 9 grams for bottled pseudoephedrine be extended to blister packed products as well. And that is what this bill would do.

The meth problem is not just a California problem, or a New York problem, or even an Iowa problem. The meth problem is a national problem, with tragic consequences across this great country. Without a continuing, nationwide, relentless effort on the part of the Federal Government, this problem will continue to grow and to infect our children and our communities with the scourge of methamphetamine production and use.

I believe DEA Director Hutchinson put it best this spring when he argued in support of Federal efforts to crack down on meth. "It clearly impacts every one of our districts, every segment of our society and every age group."

I urge my colleagues to support this legislation and join the latest step towards progress in our war against methamphetamine.

Mr. KOHL. Mr. President, I rise in support of the CLEAN-UP Meth Act of 2002. I am pleased to join my fellow cosponsors, Senators FEINSTEIN and

HUTCHINSON in introducing this legislation.

Methamphetamine is a plague in Wisconsin that affects not only the people who purchase and use it, their families and friends, but also the law enforcement officials who are involved in cleaning up the abandoned meth laboratories. These home grown meth labs inflict significant damage to the environment unlike other illicit drugs. The labs contaminate the environment and threaten those who discover and break down the labs, are exposed to the precursor chemicals and clean up the polluted environment.

The meth scourge is growing every day. In 1998, Wisconsin State authorities seized only two methamphetamine labs. By 2001, that number had increased to 52 and shows no signs of abating. Its appearance in the last few years in the western part of Wisconsin, trafficked from Minnesota and Iowa, has created a dramatic new problem for law enforcement. And, production in the State has grown dramatically in the last four years.

The amount of methamphetamine produced in Wisconsin is also growing by leaps and bounds. In 1999, State drug task forces seized 1.6 kilograms of methamphetamine. In 2000, the number increased to 2.5 kilograms. Finally, in 2001, the amount of methamphetamine seized in Wisconsin skyrocketed to 20.9 kilograms, an increase of 13 fold in only two years.

The existence of a significant and growing meth problem comes as no surprise to us. In fact, with the assistance of Wisconsin's Department of Narcotics Enforcement, we have attempted to fight the spread of meth for the past several years. We have augmented DEA's representation in Wisconsin, specifically adding new agents in the western part of the state to work in conjunction with state drug officials. We have secured DEA mobile drug teams to traverse the northwestern part of the State where much of the meth can be found. We have also secured millions of dollars in the appropriations process to aid in prevention and clean up efforts in western Wisconsin.

Unfortunately, this has not stemmed the spread of meth. We fear to consider how much worse the problem would be if it were not for the efforts of our state and local law enforcement officials.

We must do more. The legislation we introduced today is another weapon in the battle against the spread of meth. The bill authorizes more funding for the education, prevention and clean up of methamphetamine.

Educating more people about the dangers of meth and assisting in safe environmental cleanup are important, long-term approaches to the meth problem. There is, however, something that can be done immediately to make it more difficult for meth producers to manufacture the drugs.

We need to make it more difficult for meth producers to get access to the

precursor chemicals they use to produce methamphetamine. That means closing a loophole in the law that currently makes it too easy for meth producers to get pseudoephedrine. Pseudoephedrine is the central ingredient in both methamphetamine and most major cold medicines sold over the counter.

To combat the sale of pseudoephedrine to meth producers, Congress passed the Comprehensive Methamphetamine Control Act of 1996. This limited the amount of pseudoephedrine or ephedrine that any one person could purchase at one time. Yet, Congress did not proscribe the purchase of pseudoephedrine in so-called "blister packs." The pharmaceutical industry argued that it is sufficiently difficult to remove each pill from a blister pack, that the sale of pseudoephedrine in that form need not be limited. Only the sale of pseudoephedrine in bottles where it would be easy for meth producers to access large quantities needed to be restricted.

As it turns out, the meth producers adapted their behavior to take advantage of the loophole in the law by finding a way to make the blister packaged pseudoephedrine economical to purchase. They did so with the advent of presses that simply punctured all of the blister packs—therefore removing the type of packaging as an impediment to their access to the pseudoephedrine.

The DEA conducted a study on the use of blister packs and found that among the refuse left at meth labs are more and more blister packs. This demonstrates, in the DEA's view, that the blister pack loophole needs to be closed. We agree with their recommendation and therefore recommend limiting the amount of pseudoephedrine that can be purchased by any one person at any one time.

Closing this loophole in the law governing the manufacture of meth is one more weapon in the battle against the drug. Combined with education, prevention and greater resources for law enforcement throughout Wisconsin, we can stem the tide of this scourge before it does even more damage.

By Mr. MILLER:

S. 2764. A bill to eliminate the Federal quota and price support for tobacco, to compensate quota holders and active producers for the loss of tobacco quota asset value, to establish a permanent advisory board to determine and describe the physical characteristics of domestic and imported tobacco, and for other purposes; to the Committee on Finance.

Mr. MILLER. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2764

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “Tobacco Livelihood and Economic Assistance for Our Farmers Act of 2002”.

(b) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—TERMINATION OF CURRENT TOBACCO PROGRAMS

Sec. 101. Termination of tobacco production adjustment programs.

Sec. 102. Termination of tobacco price support program.

Sec. 103. Geographical restrictions on expansion of tobacco production.

Sec. 104. Continued availability of Federal crop insurance.

TITLE II—PAYMENTS TO TOBACCO QUOTA HOLDERS AND PRODUCERS

Sec. 201. Definitions.

Sec. 202. Payments to tobacco quota holders.

Sec. 203. Transition payments for active producers of quota tobacco.

TITLE III—TOBACCO QUALITY BOARD

Sec. 301. Definitions.

Sec. 302. Establishment of Board.

Sec. 303. Duties.

Sec. 304. Administration.

TITLE IV—TOBACCO PRODUCT MANUFACTURER AND IMPORTER USER FEES

Sec. 401. User fee.

Sec. 402. Allocation of user fees.

TITLE V—FDA REGULATION OF TOBACCO PRODUCTS

Sec. 501. Findings.

Subtitle A—FDA Jurisdiction Over Tobacco Products

Sec. 511. Definition of tobacco product.

Sec. 512. Tobacco products.

Sec. 513. Conforming and technical amendments.

Subtitle B—Cigarette Labeling and Advertising

Sec. 521. Definition of cigarette.

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Subtitle C—Smokeless Tobacco Labels and Advertising Warnings

Sec. 531. Smokeless tobacco labels and advertising warnings.

Subtitle D—Administration

Sec. 541. FTC jurisdiction not affected.

TITLE I—TERMINATION OF CURRENT TOBACCO PROGRAMS

SEC. 101. TERMINATION OF TOBACCO PRODUCTION ADJUSTMENT PROGRAMS.

(a) **TOBACCO CONTROL.**—The Act of April 25, 1936 (commonly known as the Tobacco Control Act; 7 U.S.C. 515 et seq.), is repealed.

(b) **COMMODITY HANDLING ORDERS.**—Section 8(c)(2)(A) of the Agricultural Adjustment Act (7 U.S.C. 608c(2)(A)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended by striking “tobacco.”

(c) **PROCESSING TAX.**—Section 9(b) of the Agricultural Adjustment Act (7 U.S.C. 609(b)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended—

(1) in paragraph (2), by striking “tobacco,”; and

(2) in paragraph (6)(B)(i), by striking “, or, in the case of tobacco, is less than the fair exchange value by not more than 10 per centum.”

(d) **BURLEY TOBACCO IMPORT REVIEW.**—Section 3 of Public Law 98–59 (7 U.S.C. 625) is repealed.

(e) **DECLARATION OF POLICY.**—Section 2 of the Agricultural Adjustment Act of 1938 (7

U.S.C. 1282) is amended by striking “tobacco.”

(f) **DEFINITIONS.**—Section 301(b) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1301(b)) is amended—

(1) in paragraph (3)—

(A) by striking subparagraph (C); and

(B) by redesignating subparagraph (D) as subparagraph (C);

(2) in paragraph (6)(A), by striking “tobacco,”; and

(3) in paragraph (7), by striking the following:

“Tobacco (Flue-cured), July 1—June 30;

“Tobacco (other than Flue-cured), October 1–September 30;”

(4) in paragraph (10)—

(A) by striking subparagraph (B); and

(B) by redesignating subparagraph (C) as subparagraph (B);

(5) in paragraph (11)(B), by striking “and tobacco,”; and

(6) in paragraph (12), by striking “tobacco,”; and

(7) in paragraph (14)—

(A) in subparagraph (A), by striking “(A)”;

(B) by striking subparagraphs (B), (C), and (D);

(8) by striking paragraph (15);

(9) in paragraph (16)—

(A) by striking subparagraph (B); and

(B) by redesignating subparagraph (C) as subparagraph (B);

(10) by striking paragraph (17); and

(11) by redesignating paragraph (16) as paragraph (15).

(g) **PARITY PAYMENTS.**—Section 303 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1303) is amended in the first sentence by striking “rice, or tobacco,” and inserting “or rice.”

(h) **MARKETING QUOTAS.**—Part I of subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1311 et seq.) is repealed.

(i) **ADMINISTRATIVE PROVISIONS.**—Section 361 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1361) is amended by striking “tobacco.”

(j) **ADJUSTMENT OF QUOTAS.**—Section 371 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1371) is amended—

(1) in the first sentence of subsection (a), by striking “rice, or tobacco” and inserting “or rice”; and

(2) in the first sentence of subsection (b), by striking “rice, or tobacco” and inserting “or rice.”

(k) **REPORTS AND RECORDS.**—Section 373 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1373) is amended—

(1) by striking “rice, or tobacco” each place it appears in subsections (a) and (b) and inserting “or rice”; and

(2) in subsection (a)—

(A) in the first sentence, by striking “all persons engaged in the business of redrying, prizing, or stemming tobacco for producers,”; and

(B) in the last sentence, by striking “\$500,” and all that follows through the period at the end of the sentence and inserting “\$500.”

(l) **REGULATIONS.**—Section 375(a) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1375(a)) is amended by striking “peanuts, or tobacco” and inserting “or peanuts”.

(m) **EMINENT DOMAIN.**—Section 378 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1378) is amended—

(1) in the first sentence of subsection (c), by striking “cotton, and tobacco” and inserting “and cotton”; and

(2) by striking subsections (d), (e), and (f).

(n) **BURLEY TOBACCO FARM RECONSTITUTION.**—Section 379 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1379) is amended—

(1) in subsection (a)—

(A) by striking “(a)”;

(B) in paragraph (6), by striking “, but this clause (6) shall not be applicable in the case of burley tobacco”; and

(2) by striking subsections (b) and (c).

(o) **ACREAGE-POUNDAGE QUOTAS.**—Section 4 of the Act of April 16, 1955 (Public Law 89–12; 7 U.S.C. 1314c note), is repealed.

(p) **BURLEY TOBACCO ACREAGE ALLOTMENTS.**—The Act of July 12, 1952 (7 U.S.C. 1315), is repealed.

(q) **TRANSFER OF ALLOTMENTS.**—Section 703 of the Food and Agriculture Act of 1965 (7 U.S.C. 1316) is repealed.

(r) **ADVANCE RECOURSE LOANS.**—Section 13(a)(2)(B) of the Food Security Improvements Act of 1986 (7 U.S.C. 1433c–1(a)(2)(B)) is amended by striking “tobacco and”.

(s) **TOBACCO FIELD MEASUREMENT.**—Section 1112 of the Omnibus Budget Reconciliation Act of 1987 (Public Law 100–203) is amended by striking subsection (c).

(t) **LIABILITY.**—The amendments made by this section shall not affect the liability of any person under any provision of law as in effect before the effective date under subsection (u).

(u) **CROPS.**—This section and the amendments made by this section shall apply with respect to the 2003 and subsequent crops of the kind of tobacco involved.

SEC. 102. TERMINATION OF TOBACCO PRICE SUPPORT PROGRAM.

(a) **PARITY PRICE SUPPORT.**—Section 101 of the Agricultural Act of 1949 (7 U.S.C. 1441) is amended—

(1) in the first sentence of subsection (a), by striking “tobacco (except as otherwise provided herein), corn,” and inserting “corn”; and

(2) by striking subsections (c), (g), (h), and (i);

(3) in subsection (d)(3)—

(A) by striking “, except tobacco,”; and

(B) by striking “and no price support shall be made available for any crop of tobacco for which marketing quotas have been disapproved by producers,”; and

(4) by redesignating subsections (d) and (e) as subsections (c) and (d), respectively.

(b) **TERMINATION OF TOBACCO PRICE SUPPORT AND NO NET COST PROVISIONS.**—Sections 106, 106A, and 106B of the Agricultural Act of 1949 (7 U.S.C. 1445, 1445–1, 1445–2) are repealed.

(c) **DEFINITION OF BASIC AGRICULTURAL COMMODITY.**—Section 408(c) of the Agricultural Act of 1949 (7 U.S.C. 1428(c)) is amended by striking “tobacco.”

(d) **REVIEW OF BURLEY TOBACCO IMPORTS.**—Section 3 of Public Law 98–59 (7 U.S.C. 625) is repealed.

(e) **POWERS OF COMMODITY CREDIT CORPORATION.**—Section 5 of the Commodity Credit Corporation Charter Act (15 U.S.C. 714c) is amended by inserting “(other than tobacco)” after “agricultural commodities” each place it appears.

(f) **TRANSITION PROVISIONS.**—

(1) **LIABILITY.**—The amendments made by this section shall not affect the liability of any person under any provision of law as in effect before the date of enactment of this Act.

(2) **TOBACCO STOCKS AND LOANS.**—The Secretary of Agriculture shall promulgate regulations that require—

(A) the orderly disposition of quota tobacco held by any producer-owned cooperative marketing association that has entered into a loan agreement with the Commodity Credit Corporation to make price support available to producers of quota tobacco; and

(B) the repayment of all tobacco price support loans or surrender of collateral by the associations not later than 1 year after the date of enactment of this Act.

(3) SPECIAL RULES FOR TERMINATION OF NO NET COST FUNDS AND ACCOUNTS.—Notwithstanding any other provision of law, on the repeal by subsection (b) of the authority under section 106A and 106B of the Agricultural Act of 1949 (7 U.S.C. 1445-1, 1445-2) for the establishment of the No Net Cost Tobacco Funds and Accounts, respectively—

(A) any obligation of a tobacco producer, purchaser, or importer to make payments into the Fund or Account shall terminate; and

(B) any amounts in the Fund or Account shall be disposed of in the manner prescribed by the Secretary of Agriculture, except that—

(i) to the extent necessary, the amounts shall be applied or used for the purposes prescribed by that section; and

(ii) if any funds remain, the Secretary shall transfer the funds to the Secretary of Health and Human Services for use in accordance with section 402.

(g) CROPS.—This section and the amendments made by this section shall apply with respect to the 2003 and subsequent crops of the kind of tobacco involved.

SEC. 103. GEOGRAPHICAL RESTRICTIONS ON EXPANSION OF TOBACCO PRODUCTION.

(a) PURPOSES.—The purposes of this section are—

(1) to provide an orderly economic transition from the marketing of tobacco based on quotas and price support; and

(2) to address the economic dislocation, and the resulting impact on interstate commerce, that the termination of the tobacco program might cause for producers of certain agricultural communities.

(b) DEFINITIONS.—In this section:

(1) MARKETING QUOTA.—The term “marketing quota in the 2002 marketing year” means a quota established for the 2002 marketing year pursuant to part I of subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1311 et seq.) (as in effect before the amendment made by section 101(h)) and related provisions of law, as in effect for that marketing year.

(2) MARKETING YEAR.—The term “marketing year” means—

(A) in the case of Flue-cured tobacco, July 1 through June 30; and

(B) in the case of each other kind of tobacco, October 1 through September 30.

(c) PENALTY APPLICABLE TO TOBACCO GROWN IN NONQUOTA COUNTIES AND STATES.—The marketing in the 2003 or subsequent marketing years of a kind of tobacco that was subject to a marketing quota in the 2002 marketing year shall be subject to a penalty equal to 100 percent of the total amount received for the marketing of the tobacco, unless the Secretary of Agriculture determines that the tobacco was grown in a county in which the kind of tobacco was grown pursuant to a marketing quota in the 2002 marketing year.

SEC. 104. CONTINUED AVAILABILITY OF FEDERAL CROP INSURANCE.

Nothing in this title affects the eligibility of a tobacco producer to obtain crop insurance for a crop of the producer under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.).

TITLE II—PAYMENTS TO TOBACCO QUOTA HOLDERS AND PRODUCERS

SEC. 201. DEFINITIONS.

In this title:

(1) ACTIVE PRODUCER OF QUOTA TOBACCO.—The term “active producer of quota tobacco” means a person that was the actual producer of tobacco marketed under a marketing quota for the 2001 tobacco marketing year, as determined by the Secretary.

(2) QUOTA TOBACCO.—The term “quota tobacco” means a kind of tobacco that is sub-

ject to a farm marketing quota or farm acreage allotment for the 1999, 2000, 2001, and 2002 tobacco marketing years under a marketing quota or allotment program established under part I of subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) (as in effect before the amendment made by section 101(h)).

(3) SECRETARY.—The term “Secretary” means the Secretary of Agriculture.

(4) TOBACCO QUOTA HOLDER.—The term “tobacco quota holder” means an owner of a farm on January 1, 2002, for which a tobacco farm marketing quota or farm acreage allotment for quota tobacco was established with respect to the 2002 tobacco marketing year under a marketing quota program established under part I of subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) (as in effect before the amendment made by section 101(h)).

SEC. 202. PAYMENTS TO TOBACCO QUOTA HOLDERS.

(a) PAYMENT REQUIRED.—The Secretary shall make payments to each eligible tobacco quota holder for the termination of tobacco marketing quotas and related price support under the amendments made by title I, which shall constitute full and fair compensation for any losses relating to the termination of the quotas and support.

(b) ELIGIBILITY.—

(1) IN GENERAL.—To be eligible to receive a payment under this section, a person shall submit to the Secretary an application containing such information as the Secretary may require to demonstrate to the satisfaction of the Secretary that the person is a tobacco quota holder.

(2) ADMINISTRATION.—The application shall be submitted within such time, in such form, and in such manner as the Secretary may require.

(c) BASE QUOTA LEVEL.—

(1) IN GENERAL.—The Secretary shall establish a base quota level applicable to each eligible tobacco quota holder, as determined under subsection (b).

(2) POUNDAGE QUOTAS.—For each kind of tobacco for which a marketing quota is expressed in pounds, the base quota level for each tobacco quota holder shall be equal to the basic tobacco marketing quota under part I of subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) (as in effect before the amendment made by section 101(h)) for the 1998 marketing year for quota tobacco on the farm owned by the tobacco quota holder.

(3) MARKETING QUOTAS OTHER THAN POUNDAGE QUOTAS.—For each kind of tobacco for which there is a marketing quota or allotment on an acreage basis, the base quota level for each tobacco quota holder shall be the quantity obtained by multiplying—

(A) the basic tobacco farm marketing quota or allotment for the 1998 marketing year established by the Secretary for quota tobacco on the farm owned by the tobacco quota holder; by

(B) the average county production yield per acre for the county in which the farm is located for the kind of tobacco for the 1998 marketing year.

(d) PAYMENT.—The Secretary shall make payments to each eligible tobacco quota holder under subsection (b) in an amount obtained by multiplying—

(1) \$8 per pound; by

(2) the base quota level established for the quota holder under subsection (c).

(e) TIME FOR PAYMENT.—The payments to eligible tobacco quota holders required under this section shall be made in 5 equal installments during fiscal years 2003, 2004, 2005, 2006, and 2007.

(f) RESOLUTION OF DISPUTES.—Any dispute regarding the eligibility of a person to re-

ceive a payment under this section, or the amount of the payment, shall be resolved by the county committee established under section 8(b)(5) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)(5)) for the county or other area in which the farm owned by the person is located.

(g) COMMODITY CREDIT CORPORATION.—The Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this section.

SEC. 203. TRANSITION PAYMENTS FOR ACTIVE PRODUCERS OF QUOTA TOBACCO.

(a) TRANSITION PAYMENTS REQUIRED.—The Secretary shall make transition payments under this section to eligible active producers of quota tobacco.

(b) ELIGIBILITY.—

(1) IN GENERAL.—To be eligible to receive a transition payment under this section, a person shall submit to the Secretary an application containing such information as the Secretary may require to demonstrate to the satisfaction of the Secretary that the person is an active producer of quota tobacco.

(2) ADMINISTRATION.—The application shall be submitted within such time, in such form, and in such manner as the Secretary may require.

(c) PRODUCTION BASE.—

(1) IN GENERAL.—The Secretary shall establish a production base applicable to each eligible active producer of quota tobacco, as determined under subsection (b).

(2) QUANTITY.—The production base of a producer shall be equal to the quantity, in pounds, of quota tobacco subject to the basic marketing quota produced and marketed by the producer under part I of subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) (as in effect before the amendment made by section 101(h)) for the 2001 marketing year.

(d) PAYMENT.—The Secretary shall make payments to each eligible active producer of quota tobacco, as determined under subsection (b), in an amount obtained by multiplying—

(1) \$4 per pound; by

(2) the production base established for the active producer under subsection (c).

(e) TIME FOR PAYMENT.—The payments to eligible active producers of quota tobacco required under this section shall be made in 5 equal installments during fiscal years 2003, 2004, 2005, 2006, and 2007.

(f) RESOLUTION OF DISPUTES.—Any dispute regarding the eligibility of a person to receive a payment under this section, or the amount of the payment, shall be resolved by the county committee established under section 8(b)(5) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)(5)) for the county or other area in which the farming operation of the person is located.

(g) COMMODITY CREDIT CORPORATION.—The Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this section.

TITLE III—TOBACCO QUALITY BOARD

SEC. 301. DEFINITIONS.

In this title:

(1) BOARD.—The term “Board” means the Tobacco Quality Board established under section 302.

(2) SECRETARY.—The term “Secretary” means the Secretary of Agriculture.

SEC. 302. ESTABLISHMENT OF BOARD.

(a) IN GENERAL.—The Secretary shall establish a permanent advisory board within the Department of Agriculture to be known as the Tobacco Quality Board.

(b) NOMINATION AND APPOINTMENT.—The Board shall consist of 11 members, of which—

(1) 5 members shall be appointed by the Secretary from nominations submitted by representatives of tobacco producers in the United States;

(2) 5 members shall be appointed by the Secretary from nominations submitted by representatives of tobacco product manufacturers in the United States; and

(3) 1 member shall be an officer or employee of the Department of Agriculture appointed by the Secretary, who shall serve as Chairperson of the Board.

(c) TERMS.—

(1) CHAIRPERSON.—The Chairperson of the Board shall serve at the pleasure of the Secretary.

(2) OTHER MEMBERS.—Other members of the Board shall serve for 2-year terms, except that of the members first appointed to the Board, 2 producer representatives and 2 manufacturer representatives shall have initial terms of 1 year, as determined by the Secretary.

SEC. 303. DUTIES.

The Board shall—

(1) determine and describe the physical characteristics of tobacco produced in the United States and unmanufactured tobacco imported into the United States;

(2) assemble and evaluate, in a systematic manner, concerns and problems with the quality of tobacco produced in the United States, expressed by domestic and foreign buyers and manufacturers of tobacco products;

(3) review data collected by Federal agencies on the physical and chemical integrity of tobacco produced in the United States and unmanufactured tobacco imported into the United States, to ensure that tobacco being used in domestically-manufactured tobacco products is of the highest quality and is free from prohibited physical and chemical agents;

(4) investigate and communicate to the Secretary—

(A) conditions with respect to the production of tobacco that discourage improvements in the quality of tobacco produced in the United States; and

(B) recommendations for regulatory changes that would address tobacco quality issues; and

(5) carry out such other related activities as are assigned to the Board by the Secretary.

SEC. 304. ADMINISTRATION.

(a) IN GENERAL.—The Secretary shall provide the Board with (as determined by the Secretary)—

(1) a staff that is—

(A) experienced in the sampling and analysis of unmanufactured tobacco; and

(B) capable of collecting data and monitoring tobacco production information; and

(2) other resources necessary for the Board to perform the duties of the Board under this title.

(b) COMMODITY CREDIT CORPORATION.—The Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this title.

TITLE IV—TOBACCO PRODUCT MANUFACTURER AND IMPORTER USER FEES

SEC. 401. USER FEE.

(a) IN GENERAL.—

(1) ASSESSMENT.—The Secretary of Health and Human Services shall assess an annual user fee, calculated in accordance with this section, on each tobacco product manufacturer and tobacco product importer that sells tobacco products in domestic commerce in the United States.

(2) COMMENCEMENT.—The assessments shall commence during calendar year 2003, based on domestic sales of tobacco products during fiscal year 2003.

(b) BASE AMOUNT OF USER FEE FOR EACH CLASS OF TOBACCO PRODUCT.—The base amount of the user fee shall be—

(1) for cigarette manufacturers and importers, \$2,116,252,000;

(2) for small cigar manufacturers and importers, \$1,051,000;

(3) for large cigar manufacturers and importers, \$164,274,000;

(4) for snuff manufacturers and importers, \$9,920,000;

(5) for chewing tobacco manufacturers and importers, \$2,275,000;

(6) for pipe tobacco manufacturers and importers, \$1,505,000; and

(7) for roll-your-own tobacco manufacturers and importers, \$3,231,000.

(c) DETERMINATION OF ANNUAL USER FEE FOR EACH CLASS OF TOBACCO PRODUCT.—The total user fee to be assessed on, and paid by, the manufacturers and importers of each class of tobacco product in each calendar year, as allocated pursuant to subsection (d), shall be the amount obtained by multiplying—

(1) the base amount for that class of tobacco product provided under subsection (b); by

(2) a fraction—

(A) the numerator of which is the total volume of domestic sales of that class of tobacco product during the fiscal year ending on September 30 of that calendar year; and

(B) the denominator of which is the total volume of domestic sales of that class of tobacco product during fiscal year 2003.

(d) ALLOCATION OF TOTAL USER FEE AMOUNTS BY MARKET SHARE—

(1) DEFINITION OF MARKET SHARE.—In this subsection, the term “market share” means the share of each manufacturer or importer of a class of tobacco product (expressed as a decimal to the fourth place) of the total volume of domestic sales of the class of tobacco product during the calendar year immediately preceding the calendar year of an assessment under this section.

(2) ALLOCATION.—The amount of the user fee for each class of tobacco product to be paid by each manufacturer or importer of the class of tobacco product under subsection (a) shall be determined for each calendar year by multiplying—

(A) the market share of the manufacturer or importer, as calculated with respect to the calendar year, of the class of tobacco product; by

(B) the total user fee amount for the calendar year, as determined under subsection (c), for the class of tobacco product.

(e) DETERMINATION OF VOLUME OF DOMESTIC SALES.—

(1) IN GENERAL.—The calculation of the volume of domestic sales of a class of tobacco product by a manufacturer or importer, and by all manufacturers and importers as a group, shall be made by the Secretary of Health and Human Services based on certified reports submitted by the manufacturers and importers pursuant to subsection (f).

(2) MEASUREMENT.—For purposes of the calculations under this subsection and the certifications under subsection (f) by the Secretary of Health and Human Services, the volumes of domestic sales shall be measured by—

(A) in the case of cigarettes, the numbers of cigarettes sold; and

(B) in the case of each other class of tobacco products, such unit as is specified by regulation by the Secretary.

(f) CERTIFICATION OF VOLUME OF DOMESTIC SALES.—

(1) IN GENERAL.—Each manufacturer and importer of tobacco products shall submit for each year a certified report to the Secretary of Health and Human Services setting forth for each class of tobacco products marketed or imported the total, for the preceding year, of domestic sales of the tobacco products by the manufacturer and importer,

respectively, to wholesalers and retailers and directly to consumers.

(2) DEADLINE.—The certified report shall be submitted to the Secretary of Health and Human Services not later than March 1 of the year after the year for which the certified report is made.

SEC. 402. ALLOCATION OF USER FEES.

(a) IN GENERAL.—The user fees collected pursuant to section 401 and any funds transferred to the Secretary of Health and Human Services by the Secretary of Agriculture pursuant to section 102(f)(3)(B)(ii) shall be available, without further appropriation, in accordance with, and for the purposes described in, this section, to remain available until expended.

(b) FUNDING FOR FDA REGULATION OF TOBACCO PRODUCTS.—The Secretary of Health and Human Services shall make 15 percent of the user fee amounts collected pursuant to section 401 for each year available to the Secretary, acting through the Commissioner of Food and Drugs, for the regulation of tobacco products under chapter IX of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 391 et seq.).

(c) FUNDING FOR OTHER TOBACCO-RELATED PROGRAMS.—The Secretary of Health and Human Services shall use the remaining 85 percent of the user fee amounts collected each year pursuant to section 401 and any amounts transferred to the Secretary of Health and Human Services by the Secretary of Agriculture pursuant to section 102(f)(3)(B)(ii)—

(1) to reimburse the Commodity Credit Corporation for the expenditures made by the Commodity Credit Corporation under title II; and

(2) if any funds remain after carrying out paragraph (1), to fund any other program that relates to tobacco products.

TITLE V—FDA REGULATION OF TOBACCO PRODUCTS

SEC. 501. FINDINGS.

Congress finds that—

(1) the use of tobacco products by the children of the United States is a pediatric disease of epic proportions that results in new generations of tobacco-dependent children and adults;

(2) a consensus exists within the scientific and medical communities that tobacco products are inherently dangerous and cause cancer, heart disease, and other serious adverse health effects;

(3) nicotine is addictive;

(4) virtually all new users of tobacco products are under the minimum legal age to purchase tobacco products;

(5) tobacco advertising and marketing contribute significantly to the use of nicotine-containing tobacco products by adolescents;

(6) since past efforts to restrict advertising and marketing of tobacco products have failed adequately to curb tobacco use by adolescents, comprehensive restrictions on the sale, promotion, and distribution of tobacco products are needed;

(7) Federal and State governments have lacked the legal and regulatory authority and resources to address comprehensively the public health and societal problems caused by the use of tobacco products;

(8) Federal and State public health officials, the public health community, and the public at large recognize that the tobacco industry should be subject to ongoing oversight;

(9) under article I, section 8 of the Constitution, Congress is vested with the responsibility for regulating interstate commerce and commerce with Indian tribes;

(10) the sale, distribution, marketing, advertising, and use of tobacco products are activities in and substantially affect interstate

commerce because tobacco products are sold, marketed, advertised, and distributed in interstate commerce on a nationwide basis;

(11) the sale, distribution, marketing, advertising, and use of tobacco products substantially affect interstate commerce through the health care and other costs attributable to the use of tobacco products;

(12) it is in the public interest for Congress to adopt comprehensive public health legislation because of—

(A) the unique position of tobacco in the history and economy of the United States; and

(B) the need to prevent the sale, distribution, marketing and advertising of tobacco products to persons under the minimum legal age to purchase tobacco products;

(13) the public interest requires a timely, fair, equitable, and consistent result that will serve the public interest by restricting throughout the United States the sale, distribution, marketing, and advertising of tobacco products only to persons of legal age to purchase tobacco products;

(14) public health authorities estimate that the benefits to the United States of enacting Federal legislation to accomplish the goals described in this section would be significant in human and economic terms;

(15) reducing the use of tobacco by minors by 50 percent would prevent well over 60,000 early deaths each year and save up to \$43,000,000,000 each year in reduced medical costs, improved productivity, and the avoidance of premature deaths;

(16)(A) advertising, marketing, and promotion of tobacco products have been especially directed to attract young persons to use tobacco products, resulting in increased use of tobacco products by youth; and

(B) past efforts to oversee those activities have not been successful in adequately preventing the increased use;

(17) tobacco advertising increases the size of the market consumption of tobacco products and the use of tobacco by young people;

(18) children—

(A) are more influenced by tobacco advertising than adults; and

(B) smoke the most advertised brands;

(19) tobacco company documents indicate that young people are an important and often crucial segment of the tobacco market;

(20) advertising restrictions will have a positive effect on the smoking rates of young people;

(21) restrictions on advertising are necessary to prevent unrestricted tobacco advertising from undermining legislation prohibiting access to young people; and

(22) it is in the public interest for Congress to adopt legislation to address the public health crisis created by actions of the tobacco industry.

Subtitle A—FDA Jurisdiction Over Tobacco Products

SEC. 511. DEFINITION OF TOBACCO PRODUCT.

Section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321) is amended by adding at the end the following:

“(11) TOBACCO PRODUCT.—

“(A) IN GENERAL.—The term ‘tobacco product’ means any product made or derived from tobacco that is intended for human consumption.

“(B) INCLUSIONS.—The term ‘tobacco product’ includes any component, part, or accessory of a tobacco product.

“(C) EXCLUSIONS.—The term ‘tobacco product’ does not include any raw material, other than tobacco, used in manufacturing a component, part, or accessory of a tobacco product.”

SEC. 512. TOBACCO PRODUCTS.

The Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) is amended—

(1) by redesignating chapter IX (21 U.S.C. 391 et seq.) as chapter X;

(2) by redesignating sections 901 through 907 (21 U.S.C. 391 through 397) as sections 1001 through 1007, respectively; and

(3) by inserting after chapter VIII (21 U.S.C. 381 et seq.) the following:

“CHAPTER IX—TOBACCO PRODUCTS

“SEC. 901. DEFINITIONS.

“In this title:

“(1) BRAND.—The term ‘brand’ means a variety of tobacco product distinguished by the tobacco used, tar content, nicotine content, flavoring used, size, filtration, or packaging, logo, registered trademark or brand name, identifiable pattern of colors, or any combination of those attributes.

“(2) CIGARETTE.—The term ‘cigarette’ has the meaning given the term in section 3 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1332).

“(3) COMMERCE.—The term ‘commerce’ has the meaning given the term in section 3 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1332).

“(4) CONSTITUENT.—The term ‘constituent’ means, with respect to cigarettes, any element of mainstream or sidestream smoke.

“(5) DISTRIBUTOR.—

“(A) IN GENERAL.—The term ‘distributor’ means, with respect to a tobacco product, any person that furthers the distribution of cigarette or smokeless tobacco, whether domestic or imported, at any point from the original place of manufacture to the place of business of a person that sells or distributes the product to individuals for personal consumption.

“(B) EXCLUSION.—The term ‘distributor’ does not include a common carrier.

“(6) INGREDIENT.—

“(A) IN GENERAL.—The term ‘ingredient’ means, with respect to cigarettes or smokeless tobacco products, any substance, chemical, or compound (other than tobacco, water, or reconstituted tobacco sheet made wholly from tobacco) added, or specified for addition, by a manufacturer to the tobacco, paper, or filter of a cigarette, or to the tobacco of a smokeless tobacco product.

“(B) INCLUSIONS.—The term ‘ingredient’ includes, with respect to cigarettes or smokeless tobacco products, flavorants, processing aids, casing sauces, preservatives, and combustion modifiers.

“(7) MANUFACTURER.—

“(A) IN GENERAL.—The term ‘manufacturer’ means any person that manufactures a tobacco product intended to be sold in the United States.

“(B) INCLUSIONS.—The term ‘manufacturer’ includes an importer, or other first purchaser for resale in the United States, of—

“(i) a tobacco product manufactured outside of the United States; or

“(ii) a tobacco product manufactured in the United States but not intended for sale in the United States.

“(8) NICOTINE.—The term ‘nicotine’ means the chemical substance named 3-(1-Methyl-2-pyrrolidinyl) pyridine or C[10]H[14]N[2], including any salt or complex of nicotine.

“(9) PACKAGE.—The term ‘package’ means—

“(A) a pack, box, carton, or container of any kind; or

“(B) if no other container is used, any wrapping (including cellophane) in which cigarettes or smokeless tobacco is offered for sale, sold, or otherwise distributed to consumers.

“(10) RETAILER.—The term ‘retailer’ means any person that—

“(A) sells cigarettes or smokeless tobacco to individuals for personal consumption; or

“(B) operates a facility at which self-service displays of tobacco products are permitted.

“(11) SMOKELESS TOBACCO.—The term ‘smokeless tobacco’ means any product that—

“(A) consists of cut, ground, powdered, or leaf tobacco; and

“(B) is intended to be placed in the oral or nasal cavity.

“SEC. 902. FDA JURISDICTION OVER TOBACCO PRODUCTS.

“(a) IN GENERAL.—A tobacco product shall be regulated by the Secretary under this chapter and shall not be subject to the provisions of chapter V, except to the extent that—

“(1) the tobacco product is intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease (within the meaning of section 201(g)(1)(B) or 201(h)(2)); or

“(2) a health claim is made for the tobacco product under section 201(g)(1)(C) or 201(h)(3), except that this paragraph shall not apply to a reduced exposure tobacco product or a reduced risk tobacco product covered by section 913.

“(b) APPLICABILITY.—This chapter shall apply to—

“(1) all tobacco products subject to part 897 of title 21, Code of Federal Regulations and any successor regulations; and

“(2) any other tobacco product that the Secretary by regulation determines to be subject to this chapter.

“(c) SCOPE.—

“(1) OTHER PRODUCTS.—Nothing in this chapter affects the authority of the Secretary over, or the regulation of, products under this Act that are not tobacco products under chapter V or any other chapter of this Act.

“(2) LEAF TOBACCO.—

“(A) DEFINITION OF CONTROLLED BY.—In this paragraph, the term ‘controlled by’ means, when used with respect to a tobacco product manufacturer, that the tobacco product manufacturer—

“(i) is a member of the same controlled group of corporations (as that term is used in section 52(a) of the Internal Revenue Code of 1986); or

“(ii) is under common control (within the meaning of the regulations promulgated under section 52(b) of that Code).

“(B) NONAPPLICABILITY.—This chapter shall not apply to—

“(i) leaf tobacco that is not in the possession of a manufacturer; or

“(ii) a producer of leaf tobacco, including a tobacco grower, tobacco warehouse, and tobacco grower cooperative.

“(C) ENTRY ONTO FARMS.—An officer or employee of the Food and Drug Administration shall not have any authority to enter onto a farm owned by a producer of leaf tobacco without the written consent of the producer.

“(D) DUAL CAPACITY AS LEAF TOBACCO PRODUCER AND MANUFACTURER.—Notwithstanding any other provision of this subparagraph, if a producer of leaf tobacco is also a tobacco product manufacturer or is controlled by a tobacco product manufacturer, the producer shall be subject to this chapter in the producer’s capacity as a manufacturer.

“(E) REGULATIONS ON LEAF TOBACCO PRODUCTION.—Nothing in this chapter grants the Secretary authority to promulgate regulations on any matter that involves the production of leaf tobacco or a producer of leaf tobacco, other than activities by a manufacturer affecting production.

“SEC. 903. ADULTERATED TOBACCO PRODUCTS.

“(a) CONTAMINATED SUBSTANCES.—A tobacco product shall be deemed adulterated if the tobacco product—

“(1) consists in whole or in part of any filthy, putrid, or decomposed substance; or

“(2) is otherwise contaminated by any poisonous or deleterious substance that may render the tobacco product more injurious to health.

“(b) **UNSANITARY CONDITIONS.**—A tobacco product shall be deemed adulterated if the tobacco product has been prepared, packed, or held under unsanitary conditions under which the tobacco product may have been contaminated with filth, or under which the tobacco product may have been rendered more injurious to health.

“(c) **CONTAINERS.**—A tobacco product shall be deemed adulterated if the container of the tobacco product is composed, in whole or in part, of any poisonous or deleterious substance that may render the contents more injurious to health.

“(d) **PERFORMANCE STANDARDS.**—A tobacco product shall be deemed adulterated if the tobacco product is, purports to be, or is represented as a tobacco product that is subject to a performance standard established under section 908 unless the tobacco product is in all respects in conformity with the standard.

“(e) **PREMARKET APPROVAL.**—A tobacco product shall be deemed adulterated if the tobacco product—

“(1) is required by section 911(b) to have premarket approval;

“(2) is not exempt under section 907(f); and

“(3) does not have an approved application in effect.

“(f) **MANUFACTURING PRACTICES.**—A tobacco product shall be deemed adulterated if the methods used in, or the facilities or controls used for, the manufacture, packing, or storage of the tobacco product are not in conformity with applicable requirements under section 907(e)(1) or an applicable condition prescribed by an order under section 907(e)(2).

“(g) **INVESTIGATIONAL USE.**—A tobacco product shall be deemed adulterated if—

“(1) the tobacco product is a tobacco product for which an exemption has been granted under section 907(f) for investigational use; and

“(2) the person that is granted the exemption or any investigator that uses the tobacco product under the exemption fails to comply with a requirement prescribed by or under section 907(f).

“(h) **IMPORTED CIGARETTES.**—A tobacco product shall be deemed adulterated if the tobacco product is imported, or offered for import, into the United States in violation of section 5754 of the Internal Revenue Code of 1986 or title VIII of the Tariff Act of 1930 (19 U.S.C. 1681 et seq.).

“SEC. 904. MISBRANDED TOBACCO PRODUCTS.

“(a) **FALSE LABELING.**—A tobacco product shall be deemed misbranded if the labeling of the tobacco product is false or misleading.

“(b) **MISLABELED PACKAGES.**—

“(1) **IN GENERAL.**—Subject to paragraph (2), a tobacco product in package form shall be deemed misbranded unless the tobacco product bears a label containing—

“(A) the name and place of business of the tobacco product manufacturer, packer, or distributor; and

“(B) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count.

“(2) **ADMINISTRATION.**—In carrying out paragraph (1)(B), the Secretary shall (by regulation)—

“(A) permit reasonable variations; and

“(B) establish exemptions for small packages.

“(c) **INFORMATION.**—A tobacco product shall be deemed misbranded if any word, statement, or other information required by or under authority of this chapter to appear

on the label or labeling is not prominently placed on the label or labeling with such conspicuousness (as compared with other words, statements, or designs in the labeling) and in such terms as to render the information likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

“(d) **ESTABLISHED NAME.**—A tobacco product shall be deemed misbranded if—

“(1) the tobacco product has an established name; and

“(2) the label of the tobacco product does not bear, to the exclusion of any other non-proprietary name, the established name of the tobacco product prominently printed in type, as required by the Secretary by regulation.

“(e) **DIRECTIONS.**—A tobacco product shall be deemed misbranded if the Secretary has promulgated regulations requiring that the labeling of the tobacco product bear adequate directions for use, or adequate warnings against use by children, that are necessary for the protection of users unless the labeling of the tobacco product conforms in all respects to the regulations.

“(f) **PROCESSING.**—A tobacco product shall be deemed misbranded if—

“(1) the tobacco product was manufactured, prepared, propagated, compounded, or processed in any State in an establishment not duly registered under section 906(b);

“(2) the tobacco product was not included in a list required by section 906(i);

“(3) a notice or other information with respect to the tobacco product was not provided as required by section 906(i) or 906(j); or

“(4) the tobacco product does not bear such symbols from the uniform system for identification of tobacco products prescribed under section 906(e) as the Secretary by regulation requires.

“(g) **FALSE ADVERTISING.**—In the case of any tobacco product distributed or offered for sale in any State, a tobacco product shall be deemed misbranded if—

“(1) the advertising of the tobacco product is false or misleading; or

“(2) the tobacco product is sold, distributed, advertised, or promoted in violation of section 916 or regulations prescribed under section 907(d).

“(h) **REQUIRED STATEMENTS.**—In the case of any tobacco product distributed or offered for sale in any State, a tobacco product shall be deemed misbranded unless the manufacturer, packer, or distributor of the tobacco product includes in all advertisements and other descriptive printed matter issued or caused to be issued by the manufacturer, packer, or distributor with respect to the tobacco product—

“(1) a true statement of the established name of the tobacco product (as required under subsection (d)), printed prominently; and

“(2) a brief description of—

“(A) the uses of the tobacco product and relevant warnings, precautions, side effects, and contraindications; and

“(B) in the case of specific tobacco products made subject to a finding by the Secretary after notice and opportunity for comment that the action is necessary to protect the public health, a full description of the components of the tobacco product or the formula showing quantitatively each ingredient of the tobacco product, to the extent required in regulations which shall be promulgated by the Secretary after an opportunity for a hearing.

“(i) **MANDATORY DISCLAIMERS.**—In the case of any tobacco product distributed or offered for sale in any State, a tobacco product shall be deemed misbranded unless the manufacturer, packer, or distributor of the tobacco product includes in all advertisements the information required by section 917(c).

“(j) **PERFORMANCE STANDARDS.**—A tobacco product shall be deemed misbranded if the tobacco product is a tobacco product subject to a performance standard established under section 908, unless the tobacco product bears such labeling as may be prescribed in the performance standard.

“(k) **NOTICE.**—A tobacco product shall be deemed misbranded if there is a failure or refusal—

“(1) to comply with any requirement prescribed under section 905 or 909; or

“(2) to furnish any material or information required by or under section 910.

“(l) **LABELING.**—A tobacco product shall be deemed misbranded if the tobacco product is not in compliance with—

“(1) the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1331 et seq.); or

“(2) the Comprehensive Smokeless Tobacco Health Education Act of 1986 (15 U.S.C. 4401 et seq.).

“(m) **PRIOR APPROVAL OF STATEMENTS ON LABEL.**—

“(1) **IN GENERAL.**—Subject to paragraphs (2) and (3), the Secretary may, by regulation, require prior approval of statements made on the label of a tobacco product.

“(2) **ADVERTISEMENT CONTENT.**—In the case of matters specified in this section or covered by regulations promulgated under this section—

“(A) no regulation promulgated under this subsection may require prior approval by the Secretary of the content of any advertisement; and

“(B) no advertisement of a tobacco product, published after the date of enactment of the Tobacco Livelihood and Economic Assistance for Our Farmers Act of 2002, shall be subject to sections 12 through 15 of the Federal Trade Commission Act (15 U.S.C. 52 through 55).

“(3) **LABELING.**—This subsection does not apply to any printed matter that the Secretary determines to be labeling (as defined in section 201).

“SEC. 905. SUBMISSION OF HEALTH INFORMATION TO THE SECRETARY.

“(a) **REQUIREMENT.**—Not later than 180 days after the date of enactment of the Tobacco Livelihood and Economic Assistance for Our Farmers Act of 2002, each tobacco product manufacturer or importer of tobacco products, or their agents, shall submit to the Secretary the following information:

“(1) A listing of all tobacco ingredients, substances, and compounds that are, as of that date, added by the manufacturer to the tobacco, paper, filter, or other component of each tobacco product by brand and by quantity in each brand and subbrand.

“(2) A description of the content, delivery, and form of nicotine in each tobacco product measured in milligrams of nicotine.

“(3) All documents (including underlying scientific information) relating to research activities and research findings conducted, supported, or possessed by the manufacturer (or agents) on the health, behavioral, or physiological effects of tobacco products, their constituents, ingredients, and components, and tobacco additives described in paragraph (1).

“(4) All documents (including underlying scientific information) relating to research activities, and research findings, conducted, supported, or possessed by the manufacturer (or agents) that relate to the issue of whether a reduction in risk to health from tobacco products can occur on the employment of technology available or known to the manufacturer.

“(5) All documents (including underlying scientific information) relating to marketing research involving the use of tobacco products.

“(b) ANNUAL SUBMISSION OF INFORMATION.—A tobacco product manufacturer or importer that is required to submit information under subsection (a) shall update the information on an annual basis in accordance with a schedule determined by the Secretary.

“(c) TIME FOR SUBMISSION.—

“(1) NEW PRODUCTS.—At least 90 days prior to the delivery for introduction into interstate commerce of a tobacco product not on the market on the date of enactment of the Tobacco Livelihood and Economic Assistance for Our Farmers Act of 2002—

“(A) the manufacturer of the tobacco product shall provide the information required under subsection (a); and

“(B) the tobacco product shall be subject to the annual submission requirement under subsection (b).

“(2) MODIFICATION OF EXISTING PRODUCTS.—Not later than 60 days after the date of an action described in this paragraph, a tobacco product manufacturer shall advise the Secretary of the action in writing, and reference the action in submissions made under subsection (b), if the manufacturer—

“(A) adds to the tobacco product a new tobacco additive;

“(B) increases or decreases the quantity of an existing tobacco additive or the nicotine content, delivery, or form; or

“(C) eliminates a tobacco additive from the tobacco product.

“SEC. 906. ANNUAL REGISTRATION.

“(a) DEFINITIONS.—In this section:

“(1) MANUFACTURE, PREPARATION, COMPOUNDING, OR PROCESSING.—The term ‘manufacture, preparation, compounding, or processing’ includes (consistent with section 902(c)(2)) repackaging or otherwise changing the container, wrapper, or labeling of any tobacco product package in furtherance of the distribution of the tobacco product from the original place of manufacture of the tobacco product to the place of business of the person that makes final delivery or sale to the ultimate consumer or user.

“(2) NAME.—The term ‘name’ includes—

“(A) in the case of a partnership, the name of each partner; and

“(B) in the case of a corporation—

“(i) the name of each corporate officer and director; and

“(ii) the State of incorporation.

“(b) REGISTRATION BY OWNERS AND OPERATORS.—On or before December 31 of each year, each person that owns or operates any establishment in any State engaged in the manufacture, preparation, compounding, or processing of 1 or more tobacco products shall register with the Secretary the name, places of business, and all such establishments of the person.

“(c) REGISTRATION OF NEW OWNERS AND OPERATORS.—On first engaging in the manufacture, preparation, compounding, or processing of a tobacco product or tobacco products in an establishment owned or operated in any State by a person, the person shall immediately register with the Secretary the person's name, place of business, and the establishment.

“(d) REGISTRATION OF ADDED ESTABLISHMENTS.—Each person required to register under subsection (b) or (c) shall immediately register with the Secretary any additional establishment that person owns or operates in any State and at which the person begins the manufacture, preparation, compounding, or processing of 1 or more tobacco products.

“(e) UNIFORM PRODUCT IDENTIFICATION SYSTEM.—The Secretary may by regulation—

“(1) prescribe a uniform system for the identification of tobacco products; and

“(2) require that persons that are required to list the tobacco products under subsection (i) shall list the tobacco products in accordance with the system.

“(f) PUBLIC ACCESS TO REGISTRATION INFORMATION.—On request, the Secretary shall make available for inspection any registration filed under this section.

“(g) BIENNIAL INSPECTION OF REGISTERED ESTABLISHMENTS.—

“(1) IN GENERAL.—Each establishment in any State registered with the Secretary under this section shall be subject to inspection under section 704.

“(2) ADMINISTRATION.—Each such establishment engaged in the manufacture, compounding, or processing of a tobacco product or tobacco products shall be so inspected by 1 or more officers or employees duly designated by the Secretary—

“(A) at least once during the 2-year period beginning with the date of registration of the establishment under this section; and

“(B) at least once in every successive 2-year period thereafter.

“(h) FOREIGN ESTABLISHMENTS.—

“(1) REGISTRATION.—Any establishment within any foreign country engaged in the manufacture of a tobacco product that is imported, or offered for import, into the United States shall register with the Secretary the name and place of business of the establishment and the name of the United States agent for the establishment.

“(2) REGISTRATION INFORMATION.—Any establishment required to be registered under paragraph (1) shall—

“(A) provide to the Secretary the information required by subsection (i); and

“(B) comply with any other requirement of this section that is applicable to domestic manufacturers.

“(3) INSPECTIONS.—Any establishment required to be registered under paragraph (1) shall—

“(A) be subject to inspection under section 704; and

“(B) be inspected under that section by 1 or more officers or employees designated by the Secretary at least once during—

“(i) the 2-year period beginning on the date of the registration of the establishment under paragraph (1); and

“(ii) each 2-year period thereafter.

“(4) COOPERATIVE AGREEMENTS.—The Secretary may enter into cooperative agreements with officials of foreign countries to ensure that adequate and effective means are available for purposes of determining, from time to time, whether tobacco products manufactured by an establishment required to be registered under paragraph (1), if imported or offered for import into the United States, shall be refused admission under section 801(a).

“(i) REGISTRATION INFORMATION.—

“(1) PRODUCT LIST.—Each person that registers with the Secretary under subsection (b), (c), or (d) shall, at the time of registration under any of those subsections, file with the Secretary a list of all tobacco products that—

“(A) are being manufactured, prepared, compounded, or processed by the person for commercial distribution; and

“(B) have not been included in any list of tobacco products filed by that person with the Secretary under this paragraph or paragraph (2) before the time of registration.

“(2) CONTENTS OF LIST.—The list shall be prepared in such form and manner as the Secretary may prescribe and shall be accompanied by—

“(A) in the case of a tobacco product contained in the applicable list with respect to which a performance standard has been established under section 908 or that is subject to section 911—

“(i) a reference to the authority for the marketing of the tobacco product; and

“(ii) a copy of all labeling for the tobacco product;

“(B) in the case of any other tobacco product contained in an applicable list—

“(i) a copy of all consumer information and other labeling for the tobacco product;

“(ii) a representative sampling of advertisements for the tobacco product; and

“(iii) on request made by the Secretary for good cause, a copy of all advertisements for a particular tobacco product; and

“(C) if the registrant filing a list has determined that a tobacco product contained in the list is not subject to a performance standard established under section 908, a brief statement of the basis on which the registrant made the determination, if the Secretary requests such a statement with respect to the particular tobacco product.

“(3) SEMIANNUAL REPORT OF ANY CHANGE IN PRODUCT LIST.—Each person that registers with the Secretary under this subsection shall report to the Secretary once during the month of June of each year and once during the month of December of each year the following:

“(A)(i) A list of each tobacco product introduced by the registrant for commercial distribution that has not been included in any list previously filed by the person with the Secretary under this subparagraph or paragraph (1).

“(ii) A list under this subparagraph shall list a tobacco product by the established name of the tobacco product and shall be accompanied by the other information required by paragraphs (1) and (2).

“(B) If, since the date the registrant last made a report under this paragraph, the person has discontinued the manufacture, preparation, compounding, or processing for commercial distribution of a tobacco product included in a list filed under subparagraph (A) or paragraph (1)—

“(i) notice of the discontinuance;

“(ii) the date of the discontinuance; and

“(iii) the identity of the established name of the tobacco product.

“(C) If, since the date the registrant reported under subparagraph (B), a notice of discontinuance that person has resumed the manufacture, preparation, compounding, or processing for commercial distribution of the tobacco product with respect to which a notice of discontinuance was reported, notice of the resumption, the date of the resumption, the identity of the tobacco product by established name, and other information required by paragraphs (1) and (2), unless the registrant has previously reported the resumption to the Secretary under this subparagraph.

“(D) Any material change in any information previously submitted under this paragraph or paragraph (1).

“(j) REPORT PRECEDING INTRODUCTION OF CERTAIN SUBSTANTIALLY EQUIVALENT PRODUCTS INTO INTERSTATE COMMERCE.—Each person that is required to register under this section and that proposes to begin the introduction or delivery for introduction into interstate commerce for commercial distribution of a tobacco product intended for human use that was not commercially marketed in the United States as of the date of enactment of the Tobacco Livelihood and Economic Assistance for Our Farmers Act of 2002 (as defined by the Secretary by regulation) shall, at least 90 days before making the introduction or delivery, report to the Secretary (in such form and manner as the Secretary shall by regulation prescribe)—

“(1) the basis for the person's determination that the tobacco product is substantially equivalent (as defined in section 911) to a tobacco product commercially marketed in the United States as of the date of enactment of the Tobacco Livelihood and Economic Assistance for Our Farmers Act of

2002 that is in compliance with the requirements of this Act; and

“(2) action taken by the person to comply with the requirements under section 908 that are applicable to the tobacco product.

“SEC. 907. GENERAL PROVISIONS CONCERNING CONTROL OF TOBACCO PRODUCTS.

“(a) IN GENERAL.—

“(1) **APPLICABLE REQUIREMENTS.**—Any requirement established by or under section 903, 904, 906, or 910 that is applicable to a tobacco product shall apply to the tobacco product until the applicability of the requirement to the tobacco product has been changed by action taken under section 908, section 911, or subsection (d).

“(2) **INAPPLICABLE REQUIREMENTS.**—Any requirement established by or under section 903, 904, 906, or 910 that is inconsistent with a requirement imposed on the tobacco product under section 908, section 911, or subsection (d) shall not apply to the tobacco product.

“(b) **INFORMATION ON PUBLIC ACCESS AND COMMENT.—**

“(1) **APPLICATION.**—This subsection applies to—

“(A) each notice of proposed rulemaking under this section or section 908, 909, 910, or 911;

“(B) any other notice that is published in the Federal Register with respect to any other action taken under any such section and that states the reasons for the action; and

“(C) each publication of findings required to be made in connection with rulemaking under any such section.

“(2) **INFORMATION.**—Each notice and publication described in paragraph (1) shall set forth—

“(A) the manner in which interested persons may examine data and other information on which the notice or findings are based; and

“(B) the period within which interested persons may present their comments on the notice or findings (including the need for the notice or findings) orally or in writing, which period shall be not less than 60 days, and not more than 90 days, unless the period is extended by the Secretary by a notice published in the Federal Register stating good cause for the extension.

“(c) **LIMITED CONFIDENTIALITY OF INFORMATION.—**

“(1) **IN GENERAL.**—Except as provided in paragraph (2), any information reported to or otherwise obtained by the Secretary or the Secretary's representative under section 704, 905, 906, 908, 909, 910, 911, or 913, or under subsection (e) or (f), that is exempt from disclosure under section 552(a) of title 5, United States Code, by reason of section 552(b)(4) of that title shall be considered confidential and shall not be disclosed.

“(2) **EXCEPTIONS.**—Information described in paragraph (1) may be disclosed—

“(A) to other officers or employees that are carrying out this chapter; or

“(B) when relevant in any proceeding under this chapter.

“(d) **RESTRICTIONS.—**

“(1) **IN GENERAL.**—The Secretary may by regulation require that a tobacco product be restricted to sale or distribution on such conditions (including restrictions on the access to, and the advertising and promotion of, the tobacco product) as the Secretary may prescribe in the regulation if the Secretary determines that the regulation would be appropriate for the prevention of, or decrease in, the use of tobacco products by children under the age at which tobacco products may be legally purchased.

“(2) **PRESCRIPTIONS.**—No condition under paragraph (1) may require that the sale or distribution of a tobacco product be limited

to the written or oral authorization of a practitioner licensed by law to prescribe medical products.

“(3) **LABELS.**—The label of a tobacco product shall bear such appropriate statements of the restrictions required by a regulation under subsection (a) as the Secretary may by regulation prescribe.

“(4) **FACE-TO-FACE TRANSACTIONS.**—No restriction under paragraph (1) may prohibit the sale of any tobacco product in face-to-face transactions by a specific category of retail outlets.

“(e) **GOOD MANUFACTURING PRACTICES.—**

“(1) **METHODS, FACILITIES, AND CONTROLS.—**

“(A) **IN GENERAL.**—The Secretary may, in accordance with subparagraph (B), prescribe regulations requiring that the methods used in, and the facilities and controls used for, the manufacture, pre-production design validation (including a process to assess the performance of a tobacco product), and packing, and storage of a tobacco product conform to current good manufacturing practice for an agricultural product, as prescribed in the regulations, to ensure that the public health is protected and that the tobacco product is in compliance with this chapter.

“(B) **ADMINISTRATION.**—The Secretary shall—

“(i) before promulgating any regulation under subparagraph (A), afford an advisory committee an opportunity to submit recommendations with respect to the regulation proposed to be promulgated;

“(ii) before promulgating any regulation under subparagraph (A), afford opportunity for an oral hearing;

“(iii) provide the advisory committee a reasonable time to make the recommendation of the advisory committee with respect to a proposed regulation under subparagraph (A); and

“(iv) in establishing the effective date of a regulation promulgated under this subsection—

“(I) take into account the differences in—

“(aa) the manner in which the different types of tobacco products have historically been produced;

“(bb) the financial resources of the different tobacco product manufacturers; and

“(cc) the state of their existing manufacturing facilities; and

“(II) provide for a reasonable period of time for the manufacturers to conform to good manufacturing practices.

“(2) **EXEMPTIONS; VARIANCES.—**

“(A) **IN GENERAL.**—Any person subject to any requirement prescribed under paragraph (1) may petition the Secretary for a permanent or temporary exemption or variance from the requirement.

“(B) **CONTENT.**—The petition shall be submitted to the Secretary in such form and manner as the Secretary shall prescribe and shall—

“(i) in the case of a petition for an exemption from a requirement, set forth the basis for the petitioner's determination that compliance with the requirement is not required to ensure that the tobacco product will be in compliance with this chapter;

“(ii) in the case of a petition for a variance from a requirement, set forth the methods proposed to be used in, and the facilities and controls proposed to be used for, the manufacture, packing, and storage of the tobacco product in lieu of the methods, facilities, and controls prescribed by the requirement; and

“(iii) contain such other information as the Secretary shall prescribe.

“(C) **ADVISORY COMMITTEE.—**

“(i) **REFERRAL.**—The Secretary may refer to an advisory committee any petition submitted under subparagraph (A).

“(ii) **RECOMMENDATIONS.**—The advisory committee shall report the recommenda-

tions of the advisory committee to the Secretary with respect to a petition referred to the advisory committee within 60 days after the date of the petition's referral.

“(iii) **DEADLINE FOR APPROVAL OR DENIAL.**—The Secretary shall by order either approve or deny the petition not later than 60 days after the later of—

“(I) the date on which the petition was submitted to the Secretary under subparagraph (A); or

“(II) the day after the date on which the petition was referred to an advisory committee.

“(D) **GROUND FOR APPROVAL.**—The Secretary may approve—

“(i) a petition for an exemption for a tobacco product from a requirement if the Secretary determines that compliance with the requirement is not required to ensure that the tobacco product will be in compliance with this chapter; and

“(ii) a petition for a variance for a tobacco product from a requirement if the Secretary determines that the methods to be used in, and the facilities and controls to be used for, the manufacture, packing, and storage of the tobacco product in lieu of the methods, controls, and facilities prescribed by the requirement are sufficient to ensure that the tobacco product will be in compliance with this chapter.

“(E) **CONDITIONS.**—An order of the Secretary approving a petition for a variance shall prescribe such conditions respecting the methods used in, and the facilities and controls used for, the manufacture, packing, and storage of the tobacco product to be granted the variance under the petition as may be necessary to ensure that the tobacco product will be in compliance with this chapter.

“(F) **HEARING.**—After the issuance of an order under subparagraph (C) with respect to a petition, the petitioner shall have an opportunity for an informal hearing on the order.

“(f) **EXEMPTION FOR INVESTIGATIONAL USE.**—The Secretary may exempt tobacco products intended for investigational use from this chapter under such conditions as the Secretary may prescribe by regulation.

“(g) **RESEARCH AND DEVELOPMENT.**—The Secretary may enter into contracts for research, testing, and demonstrations with respect to tobacco products, and may obtain tobacco products for research, testing, and demonstration purposes, without regard to section 3324(a) and (b) of title 31, United States Code, and section 5 of title 41, United States Code.

“SEC. 908. PERFORMANCE STANDARDS.

“(a) IN GENERAL.—

“(1) FINDING.—

“(A) **REQUIREMENT.**—The Secretary may adopt a performance standard for a tobacco product if the Secretary finds that the performance standard is appropriate for the protection of the public health.

“(B) **BASIS.**—The finding shall be determined with respect to the risks and benefits to the population as a whole, including users and non-users of the tobacco product, and taking into account—

“(i) the increased or decreased likelihood that existing users of tobacco products will stop using tobacco products; and

“(ii) the increased or decreased likelihood that those individuals who do not use tobacco products will start using tobacco products.

“(2) **CONTENT OF PERFORMANCE STANDARDS.**—A performance standard established under this section for a tobacco product—

“(A) shall include provisions to provide performance that is appropriate for the protection of the public health, including provisions, where appropriate—

“(i) for the reduction of nicotine yields of the tobacco product;

“(ii) for the reduction or elimination of other harmful constituents or harmful components of the tobacco product; or

“(iii) relating to any other requirement under subparagraph (B);

“(B) shall, if necessary for the protection of public health, include—

“(i) provisions respecting the construction, components, ingredients, and properties of the tobacco product;

“(ii) provisions for the testing (on a sample basis or, if necessary, on an individual basis) of the tobacco product;

“(iii) provisions for the measurement of the performance characteristics of the tobacco product; and

“(iv) provisions requiring that the results of each or of certain of the tests of the tobacco product required to be made under clause (ii) demonstrate that the tobacco product is in conformity with the portions of the standard for which the test or tests were required; and

“(C) shall not render the tobacco product unacceptable for adult consumption.

“(3) PERIODIC REEVALUATION OF PERFORMANCE STANDARDS.—

“(A) IN GENERAL.—The Secretary shall provide for periodic evaluation of performance standards established under this section to determine whether the standards should be changed to reflect new medical, scientific, or other technological data.

“(B) TESTER.—The Secretary may provide for testing under paragraph (2) by any person.

“(4) INVOLVEMENT OF OTHER AGENCIES; INFORMED PERSONS.—In carrying out duties under this section, the Secretary shall, to the maximum extent practicable—

“(A) use available personnel, facilities, and other technical support of other Federal agencies;

“(B) consult with other Federal agencies concerned with standard-setting and other nationally or internationally recognized standard-setting entities; and

“(C) invite appropriate participation, through joint or other conferences, workshops, or other means, by informed persons representative of scientific, professional, industry, or consumer organizations who, in the Secretary's judgment, can make a significant contribution.

“(b) ESTABLISHMENT, AMENDMENT, OR REVOCATION OF STANDARDS.—

“(1) NOTICE.—

“(A) IN GENERAL.—The Secretary shall publish in the Federal Register a notice of proposed rulemaking for the establishment, amendment, or revocation of any performance standard for a tobacco product.

“(B) ESTABLISHMENT OR AMENDMENT.—A notice of proposed rulemaking for the establishment or amendment of a performance standard for a tobacco product shall—

“(i) set forth a finding with supporting justification that the performance standard is appropriate for the protection of the public health;

“(ii) set forth proposed findings with respect to the risk of illness or injury that the performance standard is intended to reduce or eliminate; and

“(iii) invite interested persons to submit an existing performance standard for the tobacco product, including a draft or proposed performance standard, for consideration by the Secretary.

“(C) REVOCATION.—A notice of proposed rulemaking for the revocation of a performance standard shall set forth a finding with supporting justification that the performance standard is no longer necessary for the protection of the public health.

“(D) ADMINISTRATION.—The Secretary shall—

“(i) consider all information submitted in connection with a proposed standard, including information concerning the countervailing effects of the performance standard on the health of adolescent tobacco users, adult tobacco users, or non-tobacco users, such as the creation of a significant demand for contraband or other tobacco products that do not meet the requirements of this chapter and the significance of the demand; and

“(ii) issue the standard, if the Secretary determines that the standard would be appropriate for the protection of the public health.

“(E) COMMENT PERIOD.—In issuing a standard under this subsection, the Secretary shall provide for a comment period of not less than 60 days.

“(2) PROMULGATION.—

“(A) IN GENERAL.—After the expiration of the period for comment on a notice of proposed rulemaking published under paragraph (1) with respect to a performance standard and after consideration of the comments and any report from an advisory committee, the Secretary shall—

“(i) promulgate a regulation establishing a performance standard and publish in the Federal Register findings on the matters referred to in paragraph (1); or

“(ii) publish a notice terminating the proceeding for the development of the standard, together with the reasons for the termination.

“(B) EFFECTIVE DATE.—

“(i) IN GENERAL.—Subject to clauses (ii) and (iii), a regulation establishing a performance standard shall set forth the 1 or more dates on which the standard takes effect.

“(ii) EARLIEST EFFECTIVE DATE.—No such regulation may take effect before the date that is 1 year after the date of the publication of the regulation unless the Secretary determines that an earlier effective date is necessary for the protection of the public health.

“(iii) BASIS.—The 1 or more effective dates shall be established so as to minimize, consistent with the public health, economic loss to, and disruption or dislocation of, domestic and international trade.

“(3) POWERS RESERVED TO CONGRESS.—Congress expressly reserves the power to make a decision establishing a performance standard—

“(A) eliminating all cigarettes, all smokeless tobacco products, or any similar class of tobacco products; or

“(B) requiring the reduction of nicotine yields of a tobacco product to zero.

“(4) AMENDMENT; REVOCATION.—

“(A) IN GENERAL.—On the Secretary's own initiative or on petition of an interested person, the Secretary may, by regulation promulgated in accordance with paragraphs (1) and (2)(B), amend or revoke a performance standard.

“(B) INTERIM EFFECTIVENESS.—The Secretary may declare a proposed amendment of a performance standard to be effective on and after the publication of the amendment in the Federal Register and until the effective date of any final action taken on the amendment, if the Secretary determines that making it so effective is in the public interest.

“(5) REFERENCE TO ADVISORY COMMITTEE.—

“(A) IN GENERAL.—In the case of a proposed regulation for the establishment, amendment, or revocation of a performance standard, the Secretary—

“(i) on the Secretary's own initiative, may refer to an advisory committee, for a report and recommendation, any matter involved in

the proposed regulation that requires the exercise of scientific judgment; and

“(ii) on the request of an interested person that demonstrates good cause for referral and that is made before the expiration of the period for submission of comments on a proposed regulation, shall refer to an advisory committee, for a report and recommendation, any matter described in clause (i).

“(B) INFORMATION.—If a proposed regulation is referred to the advisory committee under this paragraph, the Secretary shall provide the advisory committee with the data and information on which the proposed regulation is based.

“(C) REPORT AND RECOMMENDATION.—Not later than 60 days after the referral of a proposed regulation, the advisory committee shall—

“(i) conduct an independent study of the data and information furnished to the advisory committee by the Secretary and other data and information before the advisory committee; and

“(ii) submit to the Secretary a report and recommendation with respect to the proposed regulation, together with all underlying data and information and a statement of the reason or basis for the recommendation.

“(D) COPY.—A copy of the report and recommendation shall be made public by the Secretary.

“SEC. 909. NOTIFICATION AND OTHER REMEDIES.

“(a) NOTIFICATION.—

“(1) CONDITIONS.—The Secretary may issue an order described in paragraph (2) if the Secretary determines that—

“(A) a tobacco product that is introduced or delivered for introduction into interstate commerce for commercial distribution presents a risk of substantial harm to the public health that exceeds the risks posed by similar tobacco products marketed before the date of enactment of the Tobacco Livelihood and Economic Assistance for Our Farmers Act of 2002; and

“(B)(i) notification under this subsection is necessary to eliminate the unreasonable risk of the harm; and

“(ii) no more practicable means is available under the provisions of this chapter (other than this section) to eliminate the risk.

“(2) ORDER.—If the Secretary makes a determination described in paragraph (2), the Secretary may issue such order as may be necessary to ensure that adequate notification is provided in an appropriate form, by the persons and means best suited under the circumstances involved, to all persons that should properly receive the notification in order to eliminate the risk.

“(3) MEANS.—The Secretary may order notification by any appropriate means, including public service announcements.

“(4) CONSULTATION.—Before issuing an order under this subsection, the Secretary shall consult with the persons that are to give notice under the order.

“(b) NO EXEMPTION FROM OTHER LIABILITY.—Compliance with an order issued under this section shall not relieve any person from liability under Federal or State law.

“(c) RECALL AUTHORITY.—

“(1) IN GENERAL.—If the Secretary finds that there is a reasonable probability that a tobacco product contains a manufacturing or other defect not ordinarily contained in tobacco products on the market that would cause serious, adverse health consequences or death, the Secretary shall issue an order requiring the appropriate person (including the manufacturers, importers, distributors, or retailers of the tobacco product) to immediately cease distribution of the tobacco product.

“(2) HEARING.—The order shall provide the person subject to the order with an opportunity for an informal hearing, to be held not later than 10 days after the date of the issuance of the order, on the actions required by the order and on whether the order should be amended to require a recall of the tobacco product.

“(3) VACATION OF ORDER.—If, after providing an opportunity for such a hearing, the Secretary determines that inadequate grounds exist to support the actions required by the order, the Secretary shall vacate the order.

“(4) AMENDMENT OF ORDER TO REQUIRE RECALL.—

“(A) IN GENERAL.—Except as provided in subparagraph (C), if, after providing an opportunity for an informal hearing under paragraph (1), the Secretary determines that the order should be amended to include a recall of the tobacco product with respect to which the order was issued, the Secretary shall amend the order to require a recall.

“(B) TIMETABLE.—The Secretary shall specify a timetable during which the tobacco product recall will occur and shall require periodic reports to the Secretary describing the progress of the recall.

“(C) CONTENTS.—An amended order under subparagraph (A)—

“(i) shall not include recall of a tobacco product from individuals; and

“(ii) shall provide for notice to persons subject to the risks associated with the use of the tobacco product.

“(D) NOTIFICATION BY RETAILERS.—In providing the notice required by subparagraph (C)(ii), the Secretary may use the assistance of retailers and other persons that distribute the tobacco product.

“(E) NOTIFICATION BY SECRETARY.—If a significant number of persons described in subparagraph (D) cannot be identified, the Secretary shall notify the persons under section 705(b).

“(3) REMEDY NOT EXCLUSIVE.—The remedy provided by this subsection shall be in addition to remedies provided by subsection (a).

“SEC. 910. RECORDS AND REPORTS ON TOBACCO PRODUCTS.

“(a) IN GENERAL.—Each person that is a tobacco product manufacturer or importer of a tobacco product shall establish and maintain such records, make such reports, and provide such information as the Secretary may by regulation reasonably require to ensure that the tobacco product is not adulterated or misbranded and to otherwise protect public health.

“(b) ADMINISTRATION.—Regulations promulgated under subsection (a)—

“(1) may require a tobacco product manufacturer or importer to report to the Secretary in any case in which the manufacturer or importer receives or otherwise becomes aware of information that reasonably suggests that 1 of the marketed tobacco products of the manufacturer or importer may have caused or contributed to a serious, unexpected adverse experience associated with the use of the product or any significant increase in the frequency of a serious, expected adverse product experience;

“(2) shall require reporting of other significant adverse tobacco product experiences as determined by the Secretary to be necessary to be reported;

“(3) shall not impose requirements that are unduly burdensome to a tobacco product manufacturer or importer, taking into account the cost of complying with the requirements and the need for the protection of the public health and the implementation of this chapter;

“(4) when prescribing the procedure for making requests for reports or information, shall require that each request made under

the regulations for submission of a report or information to the Secretary state the reason or purpose for the request and identify, to the maximum extent practicable, the report or information;

“(5) when requiring submission of a report or information to the Secretary, shall state the reason or purpose for the submission of the report or information and identify to the maximum extent practicable the report or information; and

“(6) may not require that the identity of any patient or user be disclosed in records, reports, or information required under this subsection unless disclosure is necessary—

“(A) to protect the medical welfare of an individual;

“(B) to determine risks to public health of a tobacco product; or

“(C) to verify a record, report, or information submitted under this chapter.

“(c) MEDICAL ETHICS AND PATIENT INTERESTS.—

“(1) IN GENERAL.—In promulgating regulations under this section, the Secretary shall have due regard for the professional ethics of the medical profession and the interests of patients.

“(2) CONFIDENTIALITY.—The prohibitions of subsection (b)(6) shall continue to apply to records, reports, and information concerning any individual that has been a patient, irrespective of whether or when the individual ceases to be a patient.

“(d) REPORTS OF REMOVALS AND CORRECTIONS.—

“(1) IN GENERAL.—Except as provided in paragraph (3), the Secretary shall by regulation require a tobacco product manufacturer or importer of a tobacco product to report promptly to the Secretary any corrective action taken, or removal from the market of a tobacco product undertaken, by the manufacturer or importer if the removal or correction was undertaken—

“(A) to reduce a risk to health posed by the tobacco product; or

“(B) to remedy a violation of this chapter caused by the tobacco product that may present a risk to health.

“(2) RECORD.—A tobacco product manufacturer or importer of a tobacco product that undertakes a corrective action or removal from the market of a tobacco product that is not required to be reported under this subsection shall keep a record of the correction or removal.

“(3) PREVIOUS REPORT.—No report of the corrective action or removal of a tobacco product may be required under paragraph (1) if a report of the corrective action or removal is required and has been submitted under subsection (a).

“SEC. 911. PREMARKET REVIEW OF CERTAIN TOBACCO PRODUCTS.

“(a) DEFINITION OF SUBSTANTIALLY EQUIVALENT.—

“(1) IN GENERAL.—In this section and section 906(j), the term ‘substantially equivalent’ or ‘substantial equivalence’ mean, with respect to the tobacco product being compared to the predicate tobacco product, that the Secretary by order has determined that—

“(A) the tobacco product has the same characteristics as the predicate tobacco product; or

“(B) the tobacco product has different characteristics, and the information for the tobacco product submitted contains information, including clinical data if considered necessary by the Secretary, that demonstrates that it is not appropriate to regulate the product under the applicable section because the product could not reasonably be expected to increase the health risks to consumers compared to a conventional tobacco product that is commercially marketed in

the United States and that is in compliance with the requirements of this Act.

“(2) DEFINITION OF CHARACTERISTICS.—In subparagraph (A), the term ‘characteristics’ means the materials, ingredients, design, composition, heating source, or other features of a tobacco product.

“(3) INAPPLICABLE TOBACCO PRODUCTS.—A tobacco product may not be found to be substantially equivalent to a predicate tobacco product that has been removed from the market at the initiative of the Secretary or that has been determined by a judicial order to be misbranded or adulterated.

“(b) REQUIREMENT FOR PREMARKET APPROVAL.—

“(1) IN GENERAL.—Approval under this section of an application for premarket approval for any tobacco product, other than a reduced exposure tobacco product or a reduced risk tobacco product under section 913, that is not commercially marketed in the United States as of the date of enactment of the Tobacco Livelihood and Economic Assistance for Our Farmers Act of 2002 shall be required unless—

“(A) the manufacturer has submitted a report under section 906(j); and

“(B) the Secretary has not suspended the distribution of the product under this paragraph.

“(2) SUSPENSION OF DISTRIBUTION.—Not later than 90 days after the submission of a report under section 906(j), the Secretary may by order suspend the distribution of the tobacco product that is the subject of the report if the Secretary determines that there is a reasonable likelihood that the tobacco product is not substantially equivalent to a tobacco product that is—

“(A) commercially marketed in the United States as of the date of the Tobacco Livelihood and Economic Assistance for Our Farmers Act of 2002; and

“(B) in compliance with the requirements of this Act.

“(3) FAILURE TO ISSUE ORDER.—If the Secretary fails to issue an order within the 90-day period described in paragraph (2), the tobacco product that is the subject of the report shall be deemed to be substantially equivalent to a predicate tobacco product.

“(4) FINAL AGENCY ACTION.—

“(A) IN GENERAL.—Subject to subparagraph (B), the issuance of an order under this paragraph shall constitute final agency action for purposes of section 702 of title 5, United States Code.

“(B) RESCISSION OR MODIFICATION.—The Secretary may rescind or modify an order issued under this subsection at any time.

“(c) HEALTH INFORMATION.—

“(1) IN GENERAL.—As part of a submission under section 906(j) with respect to a tobacco product, the person required to file a premarket notification under section 906(j) shall provide an adequate summary of any health information relating to the tobacco product or state that the information will be made available on request by any person.

“(2) ADMINISTRATION.—Any summary under paragraph (1) respecting a tobacco product shall—

“(A) contain detailed information regarding data concerning adverse health effects; and

“(B) be made available to the public by the Secretary not later than 30 days after the date of issuance of a determination that the tobacco product is substantially equivalent to another tobacco product.

“(3) REQUIREMENTS.—The communication that the product is a reduced exposure tobacco product or a reduced risk tobacco product shall comply with requirements prescribed by the Secretary relating to the communication.

“(4) PRIOR APPROVAL.—The Secretary may require prior approval of the communication in each case in accordance with section 913.

“(d) APPLICATION.—

“(1) CONTENTS.—An application for pre-market approval shall contain—

“(A) full reports of all information, published or known to, or that should reasonably be known to, the applicant, concerning investigations that have been made to show the health risks of the tobacco product and whether the tobacco product presents greater risk than other tobacco products;

“(B) a full statement of the components, ingredients, and properties, and of the principle or principles of operation, of the tobacco product;

“(C) a full description of the methods used in, and the facilities and controls used for, the manufacture, processing, and, when relevant, packing and installation of, the tobacco product;

“(D) an identifying reference to any performance standard under section 908 that would be applicable to any aspect of the tobacco product, and either adequate information to show that the aspect of the tobacco product fully meets the performance standard or adequate information to justify any deviation from the standard;

“(E) such samples of the tobacco product and of components of the tobacco product as the Secretary may reasonably require;

“(F) specimens of the labeling proposed to be used for the tobacco product; and

“(G) such other information relevant to the subject matter of the application as the Secretary may require.

“(2) REFERENCE TO ADVISORY COMMITTEE.—On receipt of an application meeting the requirements set forth in paragraph (1), the Secretary—

“(A) on the Secretary's own initiative, may refer the application to an advisory committee for submission (within such period as the Secretary may establish) of a report and recommendation respecting approval of the application, together with all underlying data and the reasons or basis for the recommendation; or

“(B) on the request of an applicant, shall refer the application to an advisory committee in accordance with subparagraph (A).

“(e) ACTION ON APPLICATION.—

“(1) DEADLINE.—

“(A) IN GENERAL.—As promptly as practicable, but not later than 180 days, after the date of receipt of an application under subsection (d), the Secretary, after considering the report and recommendation submitted under subsection (d)(2), shall—

“(i) issue an order approving the application, if the Secretary finds that none of the grounds for denying approval specified in paragraph (2) applies; or

“(ii) deny approval of the application, if the Secretary finds (and sets forth the basis for the finding as part of or accompanying the denial) that 1 or more grounds for denial specified in paragraph (2) apply.

“(B) SALES RESTRICTIONS.—An order approving an application for a tobacco product may require as a condition to the approval that the sale and distribution of the tobacco product be restricted, but only to the extent that the sale and distribution of a tobacco product may be restricted under a regulation promulgated under section 907(d).

“(2) DENIAL OF APPROVAL.—The Secretary shall deny approval of an application for a tobacco product if, on the basis of the information submitted to the Secretary as part of the application and any other information before the Secretary with respect to the tobacco product, the Secretary finds that—

“(A) there is a lack of a showing that permitting the tobacco product to be marketed would pose no greater risk to the public

health than currently marketed tobacco products;

“(B) the methods used in, or the facilities or controls used for, the manufacture, processing, or packing of the tobacco product do not conform to the requirements of section 907(e);

“(C) based on a fair evaluation of all material facts, the proposed labeling is false or misleading; or

“(D)(i) the tobacco product is not shown to conform in all respects to a performance standard in effect under section 908, compliance with which is a condition to approval of the application; and

“(ii) there is a lack of adequate information to justify the deviation from the standard.

“(3) DENIAL INFORMATION.—Any denial of an application shall, to the extent that the Secretary determines to be practicable, be accompanied by a statement informing the applicant of the measures required to make the application approvable (which measures may include further research by the applicant in accordance with 1 or more protocols prescribed by the Secretary).

“(4) BASIS FOR ACTION.—

“(A) IN GENERAL.—For purposes of paragraph (2)(A), whether permitting a tobacco product to be marketed would be appropriate for the protection of the public health shall, when appropriate, be determined on the basis of well-controlled investigations, which may include 1 or more clinical investigations by experts qualified by training and experience to evaluate the tobacco product.

“(B) EVIDENCE.—If the Secretary determines that there exists valid scientific evidence (other than evidence derived from investigations described in subparagraph (A)) that is sufficient to evaluate the tobacco product, the Secretary may authorize that the determination under paragraph (2)(A) be made on the basis of the evidence.

“(f) WITHDRAWAL AND TEMPORARY SUSPENSION.—

“(1) IN GENERAL.—The Secretary shall, on obtaining, where appropriate, advice on scientific matters from an advisory committee, and after due notice and opportunity for informal hearing to the holder of an approved application for a tobacco product, issue an order withdrawing approval of the application if the Secretary finds that—

“(A) the continued marketing of the tobacco product poses greater risks to the public health than other available products;

“(B) the application contained or was accompanied by a false or misleading statement of a material fact;

“(C) the applicant—

“(i) has failed to establish a system for maintaining records, or has repeatedly or deliberately failed to maintain records or to make reports, required by an applicable regulation under section 910;

“(ii) has refused to permit access to, or copying or verification of, the records as required by section 704; or

“(iii) has not complied with the requirements of section 906;

“(D) on the basis of new information before the Secretary with respect to the tobacco product, evaluated, together with the evidence before the Secretary when the application was approved, whether the methods used in, or the facilities and controls used for, the manufacture, processing, packing, or installation of the tobacco product do not conform with the requirements of section 907(e) and were not brought into conformity with the requirements within a reasonable time after receipt of written notice from the Secretary of nonconformity;

“(E) on the basis of new information before the Secretary, evaluated, together with the evidence before the Secretary when the ap-

plication was approved, whether the labeling of the tobacco product, based on a fair evaluation of all material facts, is false or misleading and was not corrected within a reasonable time after receipt of written notice from the Secretary of the fact; or

“(F) on the basis of new information before the Secretary, evaluated, together with the evidence before the Secretary when the application was approved, whether the tobacco product is shown to conform in all respects to a performance standard that is in effect under section 908, compliance with which was a condition to approval of the application, and whether there is a lack of adequate information to justify the deviation from the standard.

“(2) APPEAL.—The holder of an application subject to an order issued under paragraph (1) withdrawing approval of the application may, by petition filed on or before the 30th day after the date on which the holder receives notice of the withdrawal, obtain review of the order in accordance with subsection (e).

“(3) TEMPORARY SUSPENSION.—

“(A) IN GENERAL.—If, after providing an opportunity for an informal hearing, the Secretary determines there is reasonable probability that the continuation of distribution of a tobacco product under an approved application would cause serious, adverse health consequences or death, that is greater than ordinarily caused by tobacco products on the market, the Secretary shall by order temporarily suspend the approval of the application approved under this section.

“(B) WITHDRAWAL OF APPLICATION.—If the Secretary issues such an order, the Secretary shall proceed expeditiously under paragraph (1) to withdraw the application.

“(g) SERVICE OF ORDER.—An order issued by the Secretary under this section shall be served—

“(1) in person by any officer or employee of the department designated by the Secretary; or

“(2) by mailing the order by registered mail or certified mail addressed to the applicant at the applicant's last known address in the records of the Secretary.

“SEC. 912. JUDICIAL REVIEW.

“(a) DEFINITION OF RECORD.—In this section, the term ‘record’ means—

“(1) all notices and other matter published in the Federal Register with respect to a regulation or order reviewed;

“(2) all information submitted to the Secretary with respect to—

“(A) a regulation or order;

“(B) proceedings of any panel or advisory committee with respect to the regulation or order; and

“(C) any hearing held with respect to the regulation or order; and

“(3) any other information identified by the Secretary, in the administrative proceeding held with respect to the regulation or order, as being relevant to the regulation or order.

“(b) PETITION.—

“(1) IN GENERAL.—Not later than 30 days after the date of promulgation of a regulation under section 908 establishing, amending, or revoking a performance standard for a tobacco product, or a denial of an application for approval under section 911(c), any person adversely affected by the regulation or order may file a petition with the United States Court of Appeals for the District of Columbia, or for the circuit in which the person resides or has the person's principal place of business, for judicial review of the regulation or order.

“(2) COPY OF PETITION.—A copy of the petition shall be transmitted by the clerk of the court to the Secretary or other officer designated by the Secretary for that purpose.

“(3) RECORD OF PROCEEDINGS.—

“(A) FILING.—The Secretary shall file in the court the record of the proceedings on which the Secretary based the Secretary's regulation or order.

“(B) RATIONALE.—Each record or order shall contain a statement of the reasons for the issuance of the order and the basis, on the record, for the issuance of the order.

“(C) ADDITIONAL FINDINGS BY SECRETARY.—

“(1) IN GENERAL.—The court may order the Secretary to provide additional opportunity for the oral presentation of data, views, or arguments and for written submissions if the petitioner—

“(A) applies to the court for leave to adduce additional data, views, or arguments respecting the regulation or order being reviewed; and

“(B) demonstrates to the satisfaction of the court that—

“(i) the additional data, views, or arguments are material; and

“(ii) there were reasonable grounds for the petitioner's failure to adduce the data, views, or arguments in the proceedings before the Secretary.

“(2) MODIFICATION.—The Secretary—

“(A) may modify the Secretary's findings, or make new findings by reason of the additional data, views, or arguments so taken; and

“(B) shall file with the court—

“(i) the modified or new findings;

“(ii) the Secretary's recommendation, if any, for the modification or setting aside of the regulation or order being reviewed; and

“(iii) the return of the additional data, views, or arguments.

“(d) STANDARD OF REVIEW.—

“(1) IN GENERAL.—On the filing of the petition under subsection (a) for judicial review of a regulation or order, the court shall have jurisdiction—

“(A) to review the regulation or order in accordance with chapter 7 of title 5, United States Code; and

“(B) to grant appropriate relief, including interim relief, as provided in that chapter.

“(2) STANDARD.—A regulation or order described in paragraph (1) or (2) of subsection (a) shall not be affirmed if the regulation or order is found to be unsupported by substantial evidence on the record taken as a whole.

“(e) FINALITY OF JUDGMENT.—The judgment of the court affirming or setting aside, in whole or in part, any regulation or order shall be final, subject to review by the Supreme Court of the United States on certiorari or certification, as provided in section 1254 of title 28, United States Code.

“(f) OTHER REMEDIES.—The remedies provided for in this section shall be in addition to and not in lieu of any other remedy provided by law.

“(g) REGULATIONS AND ORDERS MUST RECITE BASIS IN RECORD.—To facilitate judicial review under this section or under any other provision of law or a regulation or order issued under section 907, 908, 909, 910, 911, or 914, each such regulation or order shall contain a statement of—

“(1) the reasons for the issuance of the regulation or order; and

“(2) the basis, in the record of the proceedings held in connection with the issuance of the regulation or order, for the issuance of the regulation or order.

“SEC. 913. REDUCED EXPOSURE AND REDUCED RISK TOBACCO PRODUCTS.

“(a) DEFINITIONS OF REDUCED EXPOSURE AND REDUCED RISK TOBACCO PRODUCTS.—In this section, the terms ‘reduced exposure tobacco product’ and ‘reduced risk tobacco product’ mean a tobacco product designated by the Secretary as a reduced exposure tobacco product or a reduced risk tobacco product, respectively, under subsection (b).

“(b) DESIGNATION.—

“(1) IN GENERAL.—A product may be designated by the Secretary as a reduced exposure tobacco product or a reduced risk tobacco product if the Secretary finds that the product is demonstrated to significantly reduce harm to individuals caused by a tobacco product in accordance with the standards provided under subparagraph (B), based on an application submitted by the manufacturer of the product (or other responsible person) that—

“(A)(i) demonstrates, through appropriate chemical and biological testing (including testing on animals and short-term human testing), that use of the product results in ingestion or inhalation of a substantially lower yield of toxic substances than use of another tobacco product in the same or different category as the subject tobacco product; or

“(ii) contains scientific evidence showing that use of the product results in a substantially lower potential risk to health in 1 or more specific respects than use of another tobacco product in the same or different category as the proposed reduced exposure tobacco product or the reduced risk product; and

“(B) if required by the Secretary, includes studies of the long-term health effects of the product.

“(2) CONSULTATION ON PROTOCOLS.—If studies are required under paragraph (1), the manufacturer may consult with the Secretary regarding protocols for conducting the studies.

“(3) BASIS FOR FINDING.—

“(A) REDUCED EXPOSURE TOBACCO PRODUCTS.—The Secretary shall designate a tobacco product as a reduced exposure tobacco product if the Secretary determines, based on such information as may be submitted by the applicant and other available information, that—

“(i) the product substantially reduces exposure to 1 or more tobacco toxicants; and

“(ii) independent scientific experts have found or predict, through clinical or epidemiological studies, a measurable reduction in the morbidity or mortality associated with the use of the product compared with the use of other tobacco products (whether in the same or a different category) commercially marketed in the United States.

“(B) REDUCED RISK TOBACCO PRODUCTS.—The Secretary shall designate a tobacco product as a reduced risk tobacco product only if the Secretary determines, based on such information as may be submitted by the applicant and other available information, that—

“(i) the product meets the criteria established under subparagraph (A); and

“(ii) there is sufficient evidence that the product can reasonably be expected to reduce the risk of 1 or more specific diseases or other adverse health effects, as compared with the use of other tobacco products (whether in the same or a different category) commercially marketed in the United States.

“(4) MARKETING REQUIREMENTS.—A tobacco product may be marketed and labeled as a reduced exposure tobacco product or a reduced risk tobacco product if the tobacco product—

“(A) has been designated by the Secretary under paragraph (1);

“(B) bears a label statement prescribed by the Secretary concerning the product's contribution to reducing harm to health; and

“(C) complies with—

“(i) requirements prescribed by the Secretary relating to marketing and advertising of the product to ensure that neither the marketing nor the labeling is false or misleading; and

“(ii) other provisions of this chapter, as prescribed by the Secretary.

“(c) REVOCATION OF DESIGNATION.—At any time after the date on which a tobacco product is designated as a reduced exposure tobacco product or a reduced risk tobacco product under this section, the Secretary may, after providing an opportunity for an informal hearing, revoke the designation if the Secretary determines, based on information not available at the time of the designation, that—

“(1) the finding made under subsection (b)(1) is no longer valid; or

“(2) the product is being marketed in violation of subsection (b)(3).

“(d) LIMITATION.—A tobacco product that is designated as a reduced exposure tobacco product or a reduced risk tobacco product that is in compliance with subsection (b) shall not be regulated as a drug or device.

“(e) DEVELOPMENT OF REDUCED EXPOSURE AND RISK TOBACCO PRODUCT TECHNOLOGY.—A tobacco product manufacturer shall provide written notice to the Secretary on the development or acquisition by the manufacturer of any technology that would reduce exposure to 1 or more tobacco toxicants, or the risk of a tobacco product to the health of the user, for which the manufacturer is not seeking designation as a reduced exposure tobacco product or a reduced risk tobacco product under this section.

“(f) POSTMARKET SURVEILLANCE.—

“(1) DISCRETIONARY SURVEILLANCE.—The Secretary may require a tobacco product manufacturer to conduct postmarket surveillance for a reduced exposure tobacco product or a reduced risk tobacco product of the manufacturer if the Secretary determines that postmarket surveillance of the tobacco product is necessary to protect the public health or is necessary to provide information regarding the health risks and other safety issues involving the tobacco product.

“(2) SURVEILLANCE APPROVAL.—

“(A) IN GENERAL.—Each tobacco product manufacturer required to conduct a surveillance of a reduced exposure tobacco product or a reduced risk tobacco product under paragraph (1) shall, not later than 30 days after receiving notice that the manufacturer is required to conduct the surveillance, submit, for the approval of the Secretary, a protocol for the required surveillance.

“(B) BASIS.—The Secretary, not later than 60 days after the receipt of the protocol, shall determine if—

“(i) the principal investigator proposed to be used in the surveillance has sufficient qualifications and experience to conduct the surveillance; and

“(ii) the protocol will result in collection of useful data or other information necessary to protect the public health.

“(C) REVIEW.—The Secretary may not approve such a protocol until the protocol has been reviewed by an appropriately qualified scientific and technical review committee established by the Secretary.

“SEC. 914. PRESERVATION OF STATE AND LOCAL AUTHORITY.

“(a) ADDITIONAL REQUIREMENTS.—

“(1) IN GENERAL.—Except as provided in paragraph (2), nothing in this Act prohibits a State or political subdivision of a State from adopting or enforcing a requirement applicable to a tobacco product that is in addition to, or more stringent than, requirements established under this chapter.

“(2) PREEMPTION OF CERTAIN STATE AND LOCAL REQUIREMENTS.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), no State or political subdivision of a State may establish or continue in effect with respect to a tobacco product any requirement that is different from, or in

addition to, any requirement applicable under the provisions of this chapter relating to performance standards, premarket approval, adulteration, misbranding, registration, labeling, good manufacturing standards, or reduced exposure tobacco products or reduced risk tobacco products.

“(B) SALE, DISTRIBUTION, OR USE.—Subparagraph (A) does not apply to requirements relating to the sale, use, or distribution of a tobacco product, including requirements relating to the access to, and the advertising and promotion of, a tobacco product.

“(b) PRODUCT LIABILITY.—No provision of this chapter relating to a tobacco product modifies or otherwise affects any action or the liability of any person under the product liability law of any State.

“SEC. 915. EQUAL TREATMENT OF RETAIL OUTLETS.

“The Secretary shall promulgate regulations that require that retail establishments for which the predominant business is the sale of tobacco products to comply with any advertising restrictions applicable to retail establishments accessible to individuals under the age of 18.

“SEC. 916. ACCESS AND MARKETING RESTRICTIONS.

“(a) DEFINITIONS.—In this section:

“(1) ADULT.—The term ‘adult’ means any person who is older than the minimum age at which it is legal to purchase or possess (whichever minimum age is older) tobacco products.

“(2) ADULT-ONLY FACILITY.—

“(A) IN GENERAL.—The term ‘adult-only facility’ means a facility or restricted area (whether open-air or enclosed) where the operator ensures or has a reasonable basis to believe (such as by checking identification as required under State law, or by checking the identification of any person appearing to be under the age of 27) that only adults are present.

“(B) TEMPORARY ADULT-ONLY FACILITY.—A facility or restricted area need not be permanently restricted to adults in order to constitute an adult-only facility, if the operator ensures or has a reasonable basis to believe that only adults are present during the event or time period in question.

“(3) BRAND NAME.—

“(A) IN GENERAL.—The term ‘brand name’ means a brand name (alone or in conjunction with any other word), trademark, logo, symbol, motto, selling message, recognizable pattern of colors, or any other indicia of product identification identical or similar to, or identifiable with, those used for any domestic brand of tobacco products.

“(B) EXCLUSION.—The term ‘brand name’ shall not include the corporate name of any tobacco product manufacturer that does not, after the date of enactment of the Tobacco Livelihood and Economic Assistance for Our Farmers Act of 2002, sell a brand of tobacco products in the United States that includes the corporate name.

“(b) CIGARETTE AND SMOKELESS TOBACCO PRODUCT REQUIREMENTS.—

“(1) MINIMUM SALES AGE.—No retailer may sell a tobacco product to any person younger than 18 years of age.

“(2) PROOF OF AGE.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), each retailer shall verify by means of photographic identification containing the bearer’s date of birth that no person purchasing the product is younger than 18 years of age.

“(B) MAXIMUM AGE.—No such verification is required for any person over the age of 26.

“(3) ENFORCEMENT BY STATES.—

“(A) IN GENERAL.—The Secretary may enter into an agreement with a State if—

“(i) the State has in effect a State law that is at least as restrictive as this subsection

under which the State agrees to enforce the State law in a manner reasonably designed to prevent the violation of the State law; and

“(ii) the Secretary provides a grant to the State for the purpose of enforcing the State law.

“(B) AUTHORITY OF SECRETARY.—No action taken by the Secretary under subparagraph (A) limits the authority of the Secretary under this subsection.

“(4) MAIL ORDER SALES.—Not later than 2 years after the date of enactment of the Tobacco Livelihood and Economic Assistance for Our Farmers Act of 2002, the Secretary shall submit to Congress a report describing the extent, if any, to which individuals younger than 18 years of age are obtaining tobacco products through the mail.

“(c) MINIMUM PACKAGE SIZE REQUIREMENTS.—

“(1) MINIMUM NUMBER OF CIGARETTES.—No manufacturer, distributor, or retailer may sell or cause to be sold, or distribute or cause to be distributed, any cigarette package that contains fewer than 20 cigarettes.

“(2) OPENING TOBACCO PRODUCT PACKAGES.—No retailer may break or otherwise open any tobacco product package to sell or distribute individual cigarettes or a number of unpackaged cigarettes that is smaller than—

“(A) the quantity in the minimum cigarette package size provided under paragraph (1); or

“(B) any quantity of another tobacco product that is smaller than the smallest package distributed by the manufacturer for individual consumer use.

“(d) PROHIBITION ON YOUTH ACCESS TO FREE SAMPLES.—

“(1) DEFINITION OF FREE SAMPLE.—In this subsection, the term ‘free sample’ does not include a tobacco product that is provided to an adult in connection with—

“(A) the purchase, exchange or redemption for proof of purchase of any tobacco product (including a free offer in connection with the purchase of a tobacco product, such as a 2-for-1 offer); or

“(B) the conducting of consumer testing or evaluation of a tobacco product with persons who certify that they are adults.

“(2) PROHIBITION.—No manufacturer, distributor, or retailer may distribute or cause to be distributed any free sample of a tobacco product, except in an adult-only facility.

“(e) VENDING MACHINES, SELF-SERVICE DISPLAYS, MAIL-ORDER SALES, AND OTHER IMPERSONAL MODES OF SALE.—

“(1) DEFINITION OF SELF-SERVICE DISPLAY.—In this subsection, the term ‘self-service display’ means any display located in an area in which the customer has access to the tobacco products without the aid of a sales clerk.

“(2) REQUIREMENT.—Except as provided in paragraph (3), a retailer may sell a tobacco product—

“(A) only in a direct, face-to-face exchange between the retailer and the consumer; and

“(B) not through a method of sale such as a vending machine or self-service display.

“(3) PERMITTED METHODS.—The following methods of sale of tobacco products shall be permitted under this subsection:

“(A) Mail-order sales, excluding mail-order redemption of coupons and distribution of free samples through the mail.

“(B) Vending machines that are located in an adult-only facility.

“(f) PROHIBITION ON YOUTH TARGETING.—

“(1) DEFINITION OF YOUTH.—In this subsection, the term ‘youth’ means any person or persons under 18 years of age.

“(2) PROHIBITION.—No manufacturer, distributor, or retailer may take—

“(A) any action, directly or indirectly, to target youth in the advertising, promotion, or marketing of tobacco products; or

“(B) any action the primary purpose of which is to initiate, maintain, or increase the incidence of youth smoking.

“(g) PROHIBITION ON USE OF CARTOONS.—

“(1) DEFINITION OF CARTOON.—In this subsection:

“(A) IN GENERAL.—The term ‘cartoon’ means any drawing or other depiction of an object, person, animal, or creature, or any similar caricature, that satisfies any of the following criteria:

“(i) The use of comically exaggerated features.

“(ii) The attribution of human characteristics to animals, plants, or other objects, or the similar use of anthropomorphic techniques.

“(iii) The attribution of unnatural or extrahuman abilities, such as imperviousness to pain or injury, X-ray vision, tunneling at very high speeds, or transformation.

“(B) INCLUSION.—The term ‘cartoon’ includes a drawing or other depiction of the character popularly known as ‘Joe Camel’.

“(C) EXCLUSIONS.—The term ‘cartoon’ does not include any drawing or other depiction that, on July 1, 1998, was in use in the United States in any manufacturer’s corporate logo or in any manufacturer’s tobacco product packaging.

“(2) PROHIBITION.—No manufacturer, distributor, or retailer may use or cause to be used any cartoon in the advertising, promoting, packaging, or labeling of tobacco products.

“(h) PROHIBITION ON OUTDOOR ADVERTISING.—

“(1) DEFINITIONS.—In this subsection:

“(A) OUTDOOR ADVERTISING.—

“(i) IN GENERAL.—The term ‘outdoor advertising’ means advertising through—

“(I) billboards;

“(II) signs and placards in arenas, stadiums, shopping malls, and video game arcades (regardless of whether located in the open air or enclosed); and

“(III) any other advertisements placed—

“(aa) outdoors; or

“(bb) on the inside surface of a window facing outward.

“(ii) EXCLUSIONS.—The term ‘outdoor advertising’ does not include—

“(I) an advertisement on the outside of a tobacco product manufacturing facility;

“(II) an individual advertisement that—

“(aa) does not occupy an area larger than 14 square feet;

“(bb) is not placed in such proximity to any other such advertisement so as to create a single mosaic-type advertisement larger than 14 square feet;

“(cc) does not function solely as a segment of a larger advertising unit or series; and

“(dd) is placed on the outside of any retail establishment that sells tobacco products (other than solely through a vending machine), on the outside (but on the property of) any such establishment, or on the inside surface of a window facing outward in any such establishment; or

“(III) an advertisement inside a retail establishment that sells tobacco products (other than solely through a vending machine) that is not placed on the inside surface of a window facing outward.

“(B) VIDEO GAME ARCADE.—The term ‘video game arcade’ means an entertainment establishment primarily consisting of video games (other than video games intended primarily for use by persons 18 years of age or older) or pinball machines.

“(2) PROHIBITION.—No manufacturer, distributor, or retailer may place or cause to be

placed any outdoor advertisement for tobacco products.

“(1) PROHIBITION ON TRANSIT ADVERTISEMENTS.—

“(1) DEFINITION OF TRANSIT ADVERTISEMENT.—In this subsection:

“(A) IN GENERAL.—The term ‘transit advertisement’ means—

“(i) advertising on or within a private or public vehicle; and

“(ii) an advertisement placed at, on, or within any bus stop, taxi stand, transportation waiting area, train station, airport, or any similar location.

“(B) EXCLUSION.—The term ‘transit advertisement’ does not include any advertisement placed in, on, or outside the premises of any retail establishment that sells tobacco products (other than solely through a vending machine), unless the individual advertisement—

“(i) occupies an area larger than 14 square feet;

“(ii) is placed in such proximity to any other such advertisement so as to create a single mosaic-type advertisement larger than 14 square feet; or

“(iii) functions solely as a segment of a larger advertising unit or series.

“(2) PROHIBITION.—No manufacturer, distributor, or retailer may place or cause to be placed any transit advertisement advertising tobacco products.

“(j) PROHIBITION ON ADVERTISING IN YOUTH-ORIENTED PUBLICATIONS.—

“(1) DEFINITION OF YOUTH-ORIENTED PUBLICATION.—In this subsection, the term ‘youth-oriented publication’ means a newspaper, magazine, periodical, or other publication—

“(A) at least 15 percent of the total readership of which is comprised of readers younger than 18 years of age, as measured by competent and reliable survey evidence; or

“(B) that is read by 2,000,000 or more persons younger than 18 years of age, as measured by competent and reliable survey evidence.

“(2) PROHIBITION.—No manufacturer, distributor, or retailer shall advertise a tobacco product in any youth-oriented publication, regardless of whether the publication has periodic or limited distribution.

“(k) PROHIBITION ON TOBACCO PRODUCT BRAND NAME SPONSORSHIPS.—

“(1) IN GENERAL.—No manufacturer, distributor, or retailer may sponsor or cause to be sponsored any athletic, musical, artistic, or other social or cultural event, or any entry or team in any event, using the brand name (alone or in conjunction with any other word), logo, symbol, motto, selling message, recognizable color or pattern of colors, or any other indicia of product identification identical or similar to, or identifiable with, that used for any brand of cigarettes or smokeless tobacco.

“(2) EXCEPTIONS.—Nothing in this subsection prevents a manufacturer, distributor, or retailer from sponsoring or causing to be sponsored any athletic, musical, artistic, or other social or cultural event, or team or entry, in the name of the corporation that manufactures the tobacco product, if—

“(A) both the corporate name and the corporation were registered and in use in the United States before January 1, 2001; and

“(B) the corporate name does not include any brand name (alone or in conjunction with any other word), logo, symbol, motto, selling message, recognizable color or pattern of colors, or any other indicia of product identification identical or similar to, or identifiable with, that used for any brand of cigarettes or smokeless tobacco.

“(3) ADULT-ONLY FACILITIES.—This subsection shall not apply to any event sponsored in an adult-only facility.

“(1) PROHIBITION ON TOBACCO BRAND NAME MERCHANDISE.—

“(1) IN GENERAL.—No manufacturer may market, distribute, offer, sell, license or cause to be marketed, distributed, offered, sold, or licensed (including by catalog or direct mail), any apparel or other merchandise that bears the brand name of a tobacco product, other than items the sole function of which is to advertise tobacco products or written or electronic publications.

“(2) EXCEPTIONS.—Nothing in this subsection shall—

“(A) prohibit the distribution to any manufacturer’s employee who is an adult of any item described in paragraph (1) that is intended for the personal use of the employee;

“(B) require any manufacturer to retrieve, collect, or otherwise recover any item that, before the date of enactment of the Tobacco Livelihood and Economic Assistance for Our Farmers Act of 2002, was marketed, distributed, offered, sold, licensed, or caused to be marketed, distributed, offered, sold, or licensed by the manufacturer;

“(C) apply to coupons or other items used by adults solely in connection with the purchase of tobacco products; or

“(D) apply to apparel or other merchandise used within an adult-only facility that is not distributed (by sale or otherwise) to any member of the general public.

“(m) PROHIBITION ON GIFTS TO UNDERAGE PERSONS BASED ON PROOFS OF PURCHASE.—

“(1) IN GENERAL.—No manufacturer, distributor, or retailer may provide or cause to be provided to any person, without sufficient proof that the person is an adult, any item in exchange for the purchase of tobacco products, or the furnishing of credits, proofs-of-purchase, or coupons with respect to such a purchase.

“(2) PROOF OF AGE.—

“(A) IN GENERAL.—For purposes of paragraph (1), a driver’s license or other government-issued identification (or legible photocopy of the license or identification), the validity of which is certified by the person to whom the item is provided, shall by itself be deemed to be a sufficient form of proof of age.

“(B) RETAILERS.—In the case of items provided (or to be redeemed) at retail establishments, a manufacturer shall be entitled to rely on verification of proof of age by the retailer, if the retailer is required to obtain verification under applicable Federal, State, or local law.

“(n) PROHIBITION ON NON-TOBACCO PRODUCT BRAND NAMES.—

“(1) DEFINITION OF OTHER VALUABLE CONSIDERATION.—In this subsection, the term ‘other valuable consideration’ does not include an agreement between 2 entities that enter into an agreement for the sole purpose of avoiding infringement claims.

“(2) PROHIBITION.—Except as provided in paragraph (3), no manufacturer may, pursuant to any agreement requiring the payment of money or other valuable consideration, use or cause to be used as a brand name of any tobacco product—

“(A) any nationally recognized or nationally established brand name or trade name of any non-tobacco item or service; or

“(B) any nationally recognized or nationally established sports team, entertainment group, or individual celebrity.

“(3) NONAPPLICABILITY.—Paragraph (2) shall not apply to any tobacco product brand name in existence as of July 1, 1998.

“(o) LIMITATION ON THIRD PARTY USE OF TOBACCO BRAND NAMES.—

“(1) IN GENERAL.—No manufacturer may license or otherwise expressly authorize any third party to use or advertise any brand name of a tobacco product in a manner pro-

hibited by this chapter if used or advertised by the manufacturer itself.

“(2) EXCEPTIONS.—Nothing in this subsection requires any manufacturer to retrieve, collect, or otherwise recover any item that, before the date of enactment of the Tobacco Livelihood and Economic Assistance for Our Farmers Act of 2002, was marketed, distributed, offered, sold, licensed, or caused to be marketed, distributed, offered, sold, or licensed by the manufacturer.

“(p) PROHIBITION ON PRODUCT PLACEMENT IN CERTAIN MEDIA.—

“(1) IN GENERAL.—Except as provided in paragraph (2), no manufacturer may make, or cause to be made, any payment or other consideration to any other person or entity to use, display, make reference to, or use as a prop any tobacco product, tobacco product package, advertisement for a tobacco product, or any other item bearing a brand name in any motion picture, television show, theatrical production or other live performance, live or recorded performance of music, commercial film or video, or video game (collectively referred to in this subsection as ‘media’).

“(2) EXCEPTIONS.—Paragraph (1) shall not apply to—

“(A) media the audience or viewers of which are within an adult-only facility, if the media are not visible to persons outside the adult-only facility;

“(B) media not intended for distribution or display to the public; or

“(C) instructional media concerning non-conventional tobacco products or tobacco products designated as reduced exposure tobacco products or reduced risk tobacco products viewed only by or provided only to consumers who are adults.

“(q) EFFECTIVE DATES.—

“(1) IN GENERAL.—Except as provided in paragraph (2), this section shall apply beginning on the date that is 180 days after the date of enactment of the Tobacco Livelihood and Economic Assistance for Our Farmers Act of 2002.

“(2) VENDING MACHINES; SPONSORSHIPS.—Subsections (e) and (k) shall apply beginning on the date that is 1 year after the date of enactment of that Act.

“SEC. 917. MANDATORY DISCLOSURES.

“(a) DISCLOSURE OF INGREDIENTS TO THE PUBLIC.—

“(1) IN GENERAL.—Not later than 1 year after the date of enactment of the Tobacco Livelihood and Economic Assistance for Our Farmers Act of 2002, except as otherwise provided in this subsection, the Secretary shall promulgate regulations requiring the disclosure to the public on a brand-by-brand basis of the common or usual name of each ingredient of a tobacco product in descending order of predominance by weight.

“(2) SPICES, FLAVORINGS, AND COLORINGS.—A manufacturer may elect to designate spices, flavorings, and colorings under paragraph (1) without naming each spice, flavoring, or coloring.

“(3) OTHER LAWS.—Any ingredient that has been disclosed to the public pursuant to any other law (including regulations) with respect to a particular brand may be required to be disclosed for the brand pursuant to this subsection.

“(4) INCIDENTAL ADDITIVES.—The regulations required by this subsection shall provide that incidental additives that are present in a tobacco product at insignificant levels and that do not have any technical or functional effect in the finished tobacco product shall be exempt from disclosure.

“(5) SMALL QUANTITIES.—The requirement of this subsection to disclose ingredients in descending order of predominance shall not

apply to ingredients in quantities of 2 percent or less by weight if a listing of the ingredients is placed at the end of the ingredients statement following an appropriate quantifying statement, such as 'contains _____ percent or less of _____', or 'less than _____ percent of _____'.

"(6) MEANS OF DISCLOSURE.—"

"(A) IN GENERAL.—Except as provided in subparagraph (B), any disclosure required pursuant to this subsection may be required by appropriate means.

"(B) LISTING OF INGREDIENTS.—Notwithstanding any other provision of this Act, the Secretary shall not require the listing of any ingredient of a tobacco product on any package or in any advertisement.

"(b) DISCLOSURE OF PERCENTAGE OF DOMESTIC AND FOREIGN TOBACCO.—Not later than 1 year after the date of enactment of the Tobacco Livelihood and Economic Assistance for Our Farmers Act of 2002, the Secretary shall promulgate regulations that require that each package of a tobacco product disclose, with respect to the tobacco contained in that brand—

"(1) the percentage of tobacco that is domestic tobacco; and

"(2) the percentage of tobacco that is foreign tobacco.

"(c) MANDATORY DISCLAIMER.—"

"(1) IN GENERAL.—Except as otherwise provided in this subsection, any tobacco product advertising that includes a term classifying a brand of tobacco product according to the tar yield or the yield of the brand to consumers of any substance, including terms such as 'light' or 'low tar', shall also include the following disclaimer: '[Brand] not shown to be less hazardous than other [type of tobacco product]'.

"(2) FILTERED.—This section shall apply to the use of the terms 'filtered' or 'filter'.

"(3) TOBACCO PRODUCT PACKAGES.—A disclaimer described in paragraph (1) shall not be required on any tobacco product package.

"(4) USE OF TERMS.—Not later than 1 year after the date of enactment of the Tobacco Livelihood and Economic Assistance for Our Farmers Act of 2002, the Secretary shall promulgate regulations relating to the use of the terms described in paragraph (1) to ensure that the terms are not false or misleading.

"(5) REDUCED EXPOSURE AND REDUCED RISK TOBACCO PRODUCTS.—The Secretary may modify or waive any requirement under this subsection with respect to any product that has been designated by the Secretary as a reduced exposure tobacco product or a reduced risk tobacco product under section 913.

"SEC. 918. REGULATORY RECORD."

"(a) IN GENERAL.—Notwithstanding subchapter II of chapter 5 of title 5, United States Code, in promulgating regulations under this chapter, the record developed and used by the Secretary for the purposes of promulgating subparts (B) and (D) of the regulations relating to the sale, distribution, and use of tobacco products on or about August 28, 1996, as reflected in articles IV and VI of the preamble to the 1996 Food and Drug Administration Tobacco Rule (including public comments, Food and Drug Administration documents, and any other information generated or compiled for purposes of promulgating the regulations), shall be deemed to have the same legal status as if the record had been developed under a rule-making proceeding conducted pursuant to section 907(d)(1).

"(b) OTHER RESPECTS.—In all other respects (including the issue of whether the regulations conform to section 907(d)(1)), the procedural requirements of this chapter and subchapter II of chapter 5, and chapter 7, of title 5, United States Code (commonly

known as the 'Administrative Procedure Act') shall apply to this chapter.

"SEC. 919. REGULATION REQUIREMENT."

"(a) TESTING, REPORTING, AND DISCLOSURE.—Not later than 2 years after the date of enactment of the Tobacco Livelihood and Economic Assistance for Our Farmers Act of 2002, the Secretary, acting through the Commissioner of Food and Drugs, shall promulgate regulations under this Act that meet the requirements of subsection (b).

"(b) CONTENTS OF RULES.—"

"(1) IN GENERAL.—The rules promulgated under subsection (a) shall require the testing, reporting, and disclosure of tobacco product smoke constituents and ingredients that the Secretary determines should be disclosed to the public in order to protect the public health.

"(2) CONSTITUENTS.—The constituents shall include tar, nicotine, carbon monoxide, and such other smoke constituents or ingredients as the Secretary may determine to be appropriate.

"(3) ADMINISTRATION.—The rules may require that tobacco product manufacturers, packagers, or importers make—

"(A) the disclosures relating to tar and nicotine through labels or advertising; and

"(B) the disclosures regarding other smoke constituents or ingredients that the Secretary determines are necessary to protect the public health.

"(c) AUTHORITY.—The Secretary, acting through the Commissioner of Food and Drugs, shall have authority to conduct or to require the testing, reporting, or disclosure of tobacco product smoke constituents."

SEC. 513. CONFORMING AND TECHNICAL AMENDMENTS."

(a) PROHIBITED ACTS.—Section 301 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331) is amended—

(1) in subsections (a), (b), (c), (g), (h), and (k), by inserting "tobacco product," after "device," each place it appears;

(2) in subsection (e), by striking "515(f), or 519" and inserting "515(f), 519, or 910";

(3) in subsection (j), by striking "708, or 721" and inserting "708, 721, 904, 905, 906, 907, 908, 909, 910, 911, or 913";

(4) by striking subsection (p) and inserting the following:

"(p) The failure—

"(1) to register in accordance with section 510 or 906;

"(2) to provide any information required by section 510(j), 510(k), 906(i), or 906(j); or

"(3) to provide a notice required by section 510(j)(2) or 906(j)(2).";

(5) in subsection (q)—

(A) by striking paragraph (1) and inserting the following:

"(1) The failure or refusal—

"(A) to comply with any requirement prescribed under section 518, 520(g), 907(f), or 909;

"(B) to furnish any notification or other material or information required by or under section 519, 520(g), 905, 907(f), or 910; or

"(C) to comply with a requirement under section 522."; and

(B) in paragraph (2), by striking "device," and inserting "device or tobacco product,";

(6) in subsection (r), by inserting "or tobacco product" after "device" each place it appears; and

(7) by adding at the end the following:

"(bb) The sale of a tobacco product in violation of a no-tobacco-sale order issued under section 303(g)(3).";

(b) PENALTIES.—Section 303(g) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 333(g)) is amended—

(1) by striking "(g)(1)(A) Except" and inserting the following:

"(g) CIVIL PENALTIES.—"

"(1) IN GENERAL.—"

"(A) PENALTY.—Except";

(2) in paragraph (1)(A), by inserting "or tobacco products" after "devices";

(3) by redesignating paragraphs (3), (4), and (5) as paragraphs (4), (5), and (6), respectively;

(4) by inserting after paragraph (2) the following:

"(3) NO-TOBACCO-SALE ORDERS.—"

"(A) IN GENERAL.—If the Secretary finds that a person has committed repeated violations of restrictions promulgated under section 906(d) at a particular retail outlet, the Secretary may impose a no-tobacco-sale order on the person prohibiting the sale of tobacco products in the outlet.

"(B) CIVIL PENALTIES.—A no-tobacco-sale order may be imposed with a civil penalty under paragraph (1).";

(5) in paragraph (4) (as redesignated by paragraph (3))—

(A) in subparagraph (A)—

(i) in the first sentence, by striking "assessed" the first place it appears and inserting "assessed, or a no-tobacco-sale order may be imposed,"; and

(ii) in the second sentence, by striking "penalty" and inserting "penalty, or on whom a no-tobacco-order is to be imposed,";

(B) in subparagraph (B)—

(i) by striking "(B) In" and inserting the following:

"(B) ADMINISTRATION.—"

"(i) FACTORS.—In"

(ii) by inserting after "penalty" the following: "or the period to be covered by a no-tobacco-sale order,"; and

(iii) by adding at the end the following:

"(ii) NO-TOBACCO-SALE ORDERS.—A no-tobacco-sale order permanently prohibiting an individual retail outlet from selling tobacco products shall include provisions that allow the outlet, after a specified period of time, to request that the Secretary compromise, modify, or terminate the order."; and

(C) by adding at the end the following:

"(D) COMPROMISE, MODIFICATION, OR TERMINATION OF NO-TOBACCO-SALE ORDERS.—The Secretary may compromise, modify, or terminate, with or without conditions, any no-tobacco-sale order.";

(6) in paragraph (5) (as redesignated by paragraph (3))—

(A) in the first sentence—

(i) by striking "(3)(A)" and inserting "(4)(A)"; and

(ii) by inserting "or the imposition of a no-tobacco-sale order" after "penalty" the first 2 places it appears; and

(B) in the second sentence, by inserting before the period at the end the following: "or on which the no-tobacco-sale order was imposed, as the case may be"; and

(7) in paragraph (6) (as redesignated by paragraph (3)), by striking "paragraph (4)" each place it appears and inserting "paragraph (5)".

(c) SEIZURE.—Section 304 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 334) is amended—

(1) in subsection (a)(2)—

(A) by striking "and" before "(D)"; and

(B) by inserting before the period at the end the following: "and (E) Any adulterated or misbranded tobacco product";

(2) in the first sentence of subsection (d)(1), by inserting "tobacco product," after "device,"; and

(3) in subsection (g), by inserting "or tobacco product" after "device" each place it appears.

(d) EXAMINATIONS AND INVESTIGATIONS.—Section 702(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 372(a)) is amended—

(1) by striking the section heading through "(a) The Secretary" and inserting the following:

“SEC. 702. EXAMINATIONS AND INVESTIGATIONS.

“(a) IN GENERAL.—

“(1) AUTHORITY.—The Secretary”; and
(2) by adding at the end the following:

“(2) TOBACCO PRODUCTS.—In the case of a tobacco product, to the maximum extent practicable, the Secretary shall contract with States in accordance with paragraph (1) to carry out inspections of retailers in connection with the enforcement of this Act.”.

(e) RECORDS OF INTERSTATE SHIPMENT.—Section 703 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 373) is amended—

(1) by inserting “tobacco products,” after “devices,” each place it appears; and

(2) by inserting “tobacco product,” after “device,” each place it appears.

(f) FACTORY INSPECTION.—Section 704 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 374) is amended—

(1) in subsection (a)(1), by inserting “tobacco products,” after “devices,” each place it appears; and

(2) in subsection (b), by inserting “tobacco product,” after “device,”.

(g) PUBLICITY.—Section 705(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 375(b)) is amended in the first sentence by inserting “tobacco products,” after “devices,”.

(h) PRESUMPTION.—Section 709 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 379) is amended by inserting “tobacco product,” after “device,”.

(i) IMPORTS AND EXPORTS.—Section 801 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381) is amended—

(1) in subsection (a)—

(A) in the first sentence, by inserting “tobacco products,” after “devices,”;

(B) in the second sentence, by striking “subsection (i) of section 510” and inserting “section 510(i) or 906(j)”;

(C) by striking “drugs or devices” each place it appears and inserting “drugs, devices, or tobacco products”;

(2) in subsection (e)(1), by inserting “tobacco product,” after “device,”.

(j) FOOD AND DRUG ADMINISTRATION.—Section 1003(d)(2)(C) of the Federal Food, Drug, and Cosmetic Act (as redesignated by section 512(2)) is amended by striking “and devices” and inserting “devices, and tobacco products”.

(k) EFFECTIVE DATE FOR NO-TOBACCO-SALE ORDER AMENDMENTS.—The amendments made by subsection (a), other than the amendment to section 301(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331(b)) made by subsection (a)(1), shall take effect only on the promulgation of final regulations by the Secretary of Health and Human Services—

(1) defining the term “repeated violation”, as used in section 303(g) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 333(g)) (as amended by subsection (b)), by identifying the number of violations of particular requirements over a specified period of time that constitute a repeated violation;

(2) providing for notice to the retailer of each violation at a particular retail outlet;

(3) providing that a person may not be charged with repeated violations at a particular retail outlet unless the Secretary has provided notice of previous violations at the outlet;

(4) establishing a period of time during which, if there are no violations by a particular retail outlet, the outlet will not be considered to have been the site of repeated violations when the next violation occurs; and

(5) providing that good faith reliance on false identification does not constitute a violation of any minimum age requirement for the sale of tobacco products.

Subtitle B—Cigarette Labeling and Advertising

SEC. 521. DEFINITION OF CIGARETTE.

Section 3(1) of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1332) is amended—

(1) in subparagraph (A), by striking “and” at the end;

(2) in subparagraph (B), by striking the period at the end and inserting “; and”; and
(3) by adding at the end the following:

“(C) any tobacco product, in any form (including Bidi and Kretek cigarettes), if—

“(i) the tobacco in the product—

“(I) is heated or burned; and

“(II) is functional in the product; and

“(ii) the product, because of the appearance of the product, the type of tobacco used in the filler, or the packaging and labeling of the product, is likely to be offered to, or purchased by, consumers as a cigarette or as roll-your-own tobacco.”.

SEC. 522. CIGARETTE LABEL AND ADVERTISING WARNINGS.

Section 4 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1333) is amended to read as follows:

“SEC. 4. LABELING.

“(a) LABEL REQUIREMENTS.—

“(1) IN GENERAL.—It shall be unlawful for any person to manufacture, package, or import for sale or distribution within the United States any cigarettes the package of which fails to bear, in accordance with the requirements of this section, 1 of the following labels:

“WARNING: Cigarettes are addictive.

“WARNING: Tobacco smoke can harm your children.

“WARNING: Cigarettes cause fatal lung disease.

“WARNING: Cigarettes cause cancer.

“WARNING: Cigarettes cause strokes and heart disease.

“WARNING: Smoking during pregnancy can harm your baby.

“WARNING: Smoking can kill you.

“WARNING: Tobacco smoke causes fatal lung disease in non-smokers.

“WARNING: Quitting smoking now greatly reduces serious risks to your health.

“(2) FORMAT.—

“(A) LOCATION.—Each label statement required by paragraph (1) shall be located in the upper portion of the front and rear panels of the package, directly on the package underneath the cellophane or other clear wrapping.

“(B) PERCENTAGE OF PANELS.—Except as provided in subparagraph (C), each label statement shall comprise at least the top 25 percent of the front and rear panels of the package.

“(C) TEXT.—

“(i) IN GENERAL.—Except as provided in clause (ii), the word ‘WARNING’ shall appear in capital letters and all text shall be in conspicuous and legible 17-point type.

“(ii) SMALLER TYPE SIZE.—If the text of the label statement would occupy more than 70 percent of the area of a panel, the text may be in a smaller conspicuous and legible type size, if at least 60 percent of the area of the panel is occupied by required text.

“(iii) CONTRAST.—The text shall be black on a white background, or white on a black background, in a manner that contrasts, by typography, layout, or color, with all other printed material on the package, in an alternating fashion under the plan submitted under subsection (b)(4).

“(D) FLIP-TOP BOXES.—

“(i) IN GENERAL.—For any cigarette brand package manufactured or distributed before January 1, 2000, that employs a flip-top style (if the packaging was used for that brand in commerce before June 21, 1997), the label

statement required by paragraph (1) shall be located on the flip-top area of the package, even if the area is less than 25 percent of the area of the front panel.

“(ii) PACKAGES.—Except as provided in clause (i), the provisions of this subsection shall apply to the package.

“(3) FOREIGN DISTRIBUTION.—This subsection does not apply to a tobacco product manufacturer or distributor of cigarettes that does not manufacture, package, or import cigarettes for sale or distribution within the United States.

“(4) TAR, NICOTINE, AND OTHER SMOKE CONSTITUENT DISCLOSURE TO THE PUBLIC.—

“(A) IN GENERAL.—The Secretary shall, by a rulemaking conducted under section 553 of title 5, United States Code, determine (in the Secretary’s sole discretion) whether cigarette and other tobacco product manufacturers shall be required to include in the area of each cigarette advertisement specified by subsection (b), or on the package label, or both, the tar and nicotine yields of the advertised or packaged brand.

“(B) METHOD.—Any such disclosure shall—

“(i) be in accordance with the methodology established under the regulations;

“(ii) conform to the type size requirements of subsection (b); and

“(iii) appear within the area specified in subsection (b).

“(C) CONSISTENCY WITH FTC REPORTING REQUIREMENTS.—Any differences between the requirements established by the Secretary under subparagraph (A) and tar and nicotine yield reporting requirements established by the Federal Trade Commission shall be resolved by a memorandum of understanding between the Secretary and the Federal Trade Commission.

“(D) SMOKE CONSTITUENTS.—

“(i) IN GENERAL.—In addition to the disclosures required by subparagraph (A), the Secretary may, under a rulemaking conducted under section 553 of title 5, United States Code, prescribe disclosure requirements regarding the level of any cigarette or other tobacco product smoke constituent.

“(ii) CONDITIONS.—Any disclosure under this subparagraph may be required if the Secretary determines that disclosure would—

“(I) be of benefit to the public health; or

“(II) otherwise increase consumer awareness of the health consequences of the use of tobacco products.

“(iii) FACE OF CIGARETTE PACKAGE OR ADVERTISEMENT.—No disclosure shall be required under this subparagraph on the face of any cigarette package or advertisement.

“(iv) OTHER MEANS.—Nothing in this section prohibits the Secretary from requiring disclosure under this subparagraph through a cigarette or other tobacco product package or advertisement insert, or by any other means, under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).

“(b) ADVERTISING REQUIREMENTS.—

“(1) IN GENERAL.—It shall be unlawful for any tobacco product manufacturer, importer, distributor, or retailer of cigarettes to advertise or cause to be advertised within the United States any cigarette unless the advertising for the cigarette bears, in accordance with this section, 1 of the labels specified in subsection (a)(1).

“(2) FORMAT.—

“(A) IN GENERAL.—Each label statement required by subsection (a) in cigarette advertising shall comply with the standards set forth in this paragraph.

“(B) PRESS AND POSTER ADVERTISEMENTS.—In the case of a press or poster advertisement, each such statement and (if applicable) any required statement relating to tar, nicotine, or other constituent yield shall—

“(i) comprise at least 20 percent of the area of the advertisement; and

“(ii) appear in a conspicuous and prominent format and location at the top of each advertisement within the border area.

“(C) REVISION OF TYPE SIZES.—The Secretary may revise the required type sizes in the border area in such manner as the Secretary determines appropriate.

“(D) TEXT.—

“(i) IN GENERAL.—The word ‘WARNING’ shall appear in capital letters, and each label statement shall appear in conspicuous and legible type.

“(ii) CONTRAST.—The text of the label statement shall be black if the background is white and white if the background is black, under the plan submitted under paragraph (4).

“(E) BORDER.—The label statement shall be enclosed by a rectangular border that is—

“(i) the same color as the letters of the statement; and

“(ii) the width of the first downstroke of the capital ‘W’ of the word ‘WARNING’ in the label statement.

“(F) TYPEFACE.—The text of the label statement shall be in a typeface pro rata to the following requirements:

“(i) 45-point type for a whole-page broadsheet newspaper advertisement.

“(ii) 39-point type for a half-page broadsheet newspaper advertisement.

“(iii) 39-point type for a whole-page tabloid newspaper advertisement.

“(iv) 27-point type for a half-page tabloid newspaper advertisement.

“(v) 31.5-point type for a double page spread magazine or whole-page magazine advertisement.

“(vi) 22.5-point type for a 28-centimeter-by-3-column advertisement.

“(vii) 15-point type for a 20-centimeter-by-2-column advertisement.

“(G) LANGUAGE.—

“(i) IN GENERAL.—Except as provided in clauses (ii) and (iii), the label statements shall be in English.

“(ii) NON-ENGLISH PUBLICATIONS.—In the case of an advertisement that appears in a newspaper, magazine, periodical, or other publication that is not in English, the statement shall appear in the predominant language of the publication.

“(iii) NON-ENGLISH ADVERTISEMENTS.—In the case of any other advertisement that is not in English, the statement shall appear in the same language as that principally used in the advertisement.

“(3) ADJUSTMENTS BY SECRETARY.—

“(A) IN GENERAL.—The Secretary may, through a rulemaking under section 553 of title 5, United States Code—

“(i) adjust the format and type sizes for the label statements required by this subsection;

“(ii) adjust the text, format, and type sizes of any required tar, nicotine yield, or other constituent disclosures; or

“(iii) establish the text, format, and type sizes for any other disclosures required under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).

“(B) LOCATION.—

“(i) IN GENERAL.—The text of any such label statements or disclosures adjusted under this paragraph shall be required to appear only within the 20 percent area of cigarette advertisements required under paragraph (2).

“(ii) REGULATIONS.—The Secretary shall promulgate regulations that provide for adjustments in the format and type sizes of any text required to appear in the 20 percent area to ensure that the total text required to appear by law will fit within the area.

“(4) MARKETING REQUIREMENTS.—

“(A) IN GENERAL.—The label statements specified in subsection (a)(1) shall be randomly displayed—

“(i) in each 12-month period, in as equal a number of times as is practicable on each brand of the product; and

“(ii) in all areas of the United States in which the product is marketed in accordance with a plan submitted by the tobacco product manufacturer, importer, distributor, or retailer and approved by the Secretary.

“(B) QUARTERLY ROTATION.—The label statements specified in subsection (a)(1) shall be rotated quarterly in alternating sequence in advertisements for each brand of cigarettes in accordance with a plan submitted by the tobacco product manufacturer, importer, distributor, or retailer to, and approved by, the Secretary.

“(C) APPROVAL OF PLAN.—The Secretary shall review each plan submitted under subparagraph (B) and approve the plan if the plan—

“(i) will provide for the equal distribution and display on packaging and the rotation required in advertising under this subsection; and

“(ii) ensures that all of the labels required under this section will be displayed by the tobacco product manufacturer, importer, distributor, or retailer at the same time.

“(c) CHANGE IN REQUIRED STATEMENTS.—The Secretary may, by a rulemaking conducted under section 553 of title 5, United States Code, adjust the format, type size, and text of any of the warning label statements required by this section (subject to the limitation on proportional size of the warning contained in subsections (a)(2) and (b)(2)), or establish the format, type size, and text of any other disclosures required under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), if the Secretary finds that such a change would promote greater public understanding of the risks associated with the use of cigarettes or smokeless tobacco products.”.

Subtitle C—Smokeless Tobacco Labels and Advertising Warnings

SEC. 531. SMOKELESS TOBACCO LABELS AND ADVERTISING WARNINGS.

Section 3 of the Comprehensive Smokeless Tobacco Health Education Act of 1986 (15 U.S.C. 4402) is amended to read as follows:

“SEC. 3. SMOKELESS TOBACCO WARNING.

“(a) GENERAL RULE.—

“(1) LABELS.—It shall be unlawful for any person to manufacture, package, or import for sale or distribution within the United States any smokeless tobacco product unless the product package bears, in accordance with the requirements of this Act, 1 of the following labels:

“WARNING: This product can cause mouth cancer.

“WARNING: This product can cause gum disease and tooth loss.

“WARNING: This product is not a safe alternative to cigarettes.

“WARNING: Smokeless tobacco is addictive.

“(2) FORMAT.—

“(A) LOCATION.—Each label statement required by paragraph (1) shall be located on the 2 principal display panels of the package.

“(B) PERCENT OF PANEL.—Each label statement shall comprise at least 25 percent of each display panel.

“(C) TEXT.—

“(i) IN GENERAL.—Except as provided in clause (ii), under the plan submitted under subsection (b)(3), each label statement shall be—

“(I) in 17-point conspicuous and legible type; and

“(II) in black text on a white background, or white text on a black background, in a manner that contrasts by typography, lay-

out, or color, with all other printed material on the package, in an alternating fashion.

“(ii) SMALLER TYPE.—If the text of a label statement would occupy more than 70 percent of the warning area of a package, the text may appear in a smaller type size, if least 60 percent of the warning area is occupied by the label statement.

“(3) CONCURRENT INTRODUCTION.—The label statements required by paragraph (1) shall be introduced by each tobacco product manufacturer, packager, importer, distributor, or retailer of smokeless tobacco products concurrently into the distribution chain of the products.

“(4) FOREIGN DISTRIBUTION.—This subsection does not apply to a tobacco product manufacturer or distributor of any smokeless tobacco product that does not manufacture, package, or import smokeless tobacco products for sale or distribution within the United States.

“(b) REQUIRED LABELS.—

“(1) IN GENERAL.—It shall be unlawful for any tobacco product manufacturer, packager, importer, distributor, or retailer of smokeless tobacco products to advertise or cause to be advertised within the United States any smokeless tobacco product unless the advertising for the product bears, in accordance with this section, 1 of the labels specified in subsection (a)(1).

“(2) STANDARDS.—

“(A) IN GENERAL.—Each label statement required by subsection (a) in smokeless tobacco advertising shall comply with the standards set forth in this paragraph.

“(B) PRESS AND POSTER ADVERTISEMENTS.—For press and poster advertisements, each such statement and (where applicable) any required statement relating to tar, nicotine, or other constituent yield shall—

“(i) comprise at least 20 percent of the area of the advertisement, and the warning area shall be delineated by a dividing line of contrasting color from the advertisement; and

“(ii) the word ‘WARNING’ shall appear in capital letters and each label statement shall appear in conspicuous and legible type.

“(C) TEXT.—The text of the label statement shall be black on a white background, or white on a black background, in an alternating fashion under the plan submitted under paragraph (3).

“(3) MARKETING REQUIREMENTS.—

“(A) IN GENERAL.—The label statements specified in paragraph (1) shall be randomly displayed—

“(i) in each 12-month period, in as equal a number of times as is practicable on each brand of the product; and

“(ii) in all areas of the United States in which the product is marketed in accordance with a plan submitted by the tobacco product manufacturer, importer, distributor, or retailer and approved by the Secretary.

“(B) QUARTERLY ROTATION.—The label statements specified in paragraph (1) shall be rotated quarterly in alternating sequence in advertisements for each brand of smokeless tobacco product in accordance with a plan submitted by the tobacco product manufacturer, importer, distributor, or retailer to, and approved by, the Secretary.

“(C) APPROVAL OF PLAN.—The Secretary shall review each plan submitted under subparagraph (B) and approve the plan if the plan, as determined by the Secretary—

“(i) will provide for the equal distribution and display on packaging and the rotation required in advertising under this subsection; and

“(ii) ensures that all of the labels required under this section will be displayed by the tobacco product manufacturer, importer, distributor, or retailer at the same time.

“(c) TELEVISION AND RADIO ADVERTISING.—It is unlawful to advertise smokeless tobacco

on any medium of electronic communications subject to the jurisdiction of the Federal Communications Commission.

“(d) **AUTHORITY TO REVISE WARNING LABEL STATEMENTS.**—The Secretary may, by a rule-making conducted under section 553 of title 5, United States Code, adjust the format, type size, and text of any of the warning label statements required by this section (subject to the limitations on proportional size of the warning required under this section), or establish the format, type size, and text of any other disclosures required under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), if the Secretary finds that such a change would promote greater public understanding of the risks associated with the use of smokeless tobacco products.”.

Subtitle D—Administration

SEC. 541. FTC JURISDICTION NOT AFFECTED.

(a) **IN GENERAL.**—Except as otherwise expressly provided in this Act or an amendment made by this Act, nothing in this Act or an amendment made by this Act limits or diminishes the authority of the Federal Trade Commission to enforce the laws under the jurisdiction of the Commission with respect to the advertising, sale, or distribution of tobacco products.

(b) **ENFORCEMENT BY FTC.**—Any advertising that violates this Act or an amendment made by this Act shall be considered—

(1) an unfair or deceptive act or practice under section 5(a) of the Federal Trade Commission Act (15 U.S.C. 45(a)); and

(2) a violation of a rule promulgated under section 18 of that Act (15 U.S.C. 57a).

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 304—ENCOURAGING THE SENATE COMMITTEE ON APPROPRIATIONS TO REPORT THIRTEEN, FISCALLY RESPONSIBLE, BIPARTISAN APPROPRIATIONS BILLS TO THE SENATE NOT LATER THAN JULY 31, 2002

Mr. BYRD submitted the following resolution; from the Committee on Appropriations; which was placed on the calendar.

S. RES. 304

Resolved, That the Senate encourages the Senate Committee on Appropriations to report thirteen, fiscally responsible, bipartisan appropriations bills to the Senate not later than July 31, 2002.

HONORING INVENTION OF MODERN AIR CONDITIONING

Mrs. LINCOLN. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of H. Con. Res. 413 and that the Senate then proceed to its consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the concurrent resolution by title.

The assistant legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 413) honoring the invention of modern air-conditioning by Dr. Willis H. Carrier on the occasion of its 100th anniversary.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mrs. LINCOLN. Mr. President, I ask unanimous consent that the concurrent resolution and preamble be agreed to en bloc, the motion to reconsider be laid upon the table en bloc, and that any statements relating thereto be printed in the RECORD, without further intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (H. Con. Res. 413) was agreed to.

The preamble was agreed to.

HONORING THE INVENTION OF MODERN AIR CONDITIONING

Mrs. LINCOLN. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. Con. Res. 128 and that the Senate then proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the concurrent resolution.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 128) honoring the invention of modern air-conditioning by Dr. Willis H. Carrier on the occasion of its 100th anniversary.

There being no objection, the Senate proceeded to the consideration of the concurrent resolution.

Mrs. LINCOLN. I ask unanimous consent that the concurrent resolution be agreed to en bloc, the motion to reconsider be laid upon the table en bloc, that any statements relating thereto be printed in the RECORD, without further intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (S. Con. Res. 128) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, reads as follows:

S. CON. RES. 128

Whereas on July 17, 1902, Dr. Willis H. Carrier submitted designs to a printing plant in Brooklyn, New York, for equipment to control temperature, humidity, ventilation, and air quality, marking the birth of modern air conditioning;

Whereas air conditioning has become an integral technology enabling the advancement of society through improvements to the Nation's health and well-being, manufacturing processes, building capacities, re-

search, medical capabilities, food preservation, art and historical conservation, and general productivity and indoor comfort;

Whereas Dr. Carrier debuted air conditioning technology for legislative activity in the House of Representatives Chamber in 1928, and the Senate Chamber in 1929;

Whereas the air conditioning industry now totals \$36,000,000,000 on a global basis and employs more than 700,000 people in the United States; and

Whereas the year 2002 marks the 100th anniversary of modern air conditioning: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress honors the invention of modern air conditioning by Dr. Willis H. Carrier on the occasion of its 100th anniversary.

ORDER FOR RECORD TO REMAIN OPEN UNTIL 1:30 P.M.

Mrs. LINCOLN. Mr. President, I ask unanimous consent that the RECORD remain open until 1:30 p.m. for the submission of statements and introduction of legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR MONDAY, JULY 22, 2002

Mrs. LINCOLN. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 2 p.m., Monday, July 22; that following the prayer and the pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate resume consideration of S. 812, with the time until 6 p.m. equally divided between the two managers or their designees.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mrs. LINCOLN. Mr. President, no rollcall votes will occur on Monday. The next rollcall vote will occur on Tuesday morning at approximately 10:45 a.m.

ADJOURNMENT UNTIL MONDAY, JULY 22, 2002, AT 2 P.M.

Mrs. LINCOLN. If there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 12:12 p.m., adjourned until Monday, July 22, 2002, at 2 p.m.

Daily Digest

HIGHLIGHTS

House Committee ordered reported The Homeland Security Act of 2002.

Senate

Chamber Action

Routine Proceedings, pages S7093–S7126

Measures Introduced: Five bills and one resolution were introduced, as follows: S. 2760–2764, and S. Res. 304. **Pages S7103–04**

Measures Reported:

S. Res. 304, encouraging the Senate Committee on Appropriations to report thirteen, fiscally responsible, bipartisan appropriations bills to the Senate not later than July 31, 2002. **Page S7103**

Measures Passed:

Modern Air-Conditioning 100th Anniversary: Committee on the Judiciary was discharged from further consideration of H. Con. Res. 413, honoring the invention of modern air-conditioning by Dr. Willis H. Carrier on the occasion of its 100th anniversary, and the resolution was then agreed to. **Page S7126**

Modern Air-Conditioning 100th Anniversary: Committee on the Judiciary was discharged from further consideration of S. Con. Res. 128, honoring the invention of modern air-conditioning by Dr.

Willis H. Carrier on the occasion of its 100th anniversary, and the resolution was then agreed to. **Page S7126**

Greater Access To Affordable Pharmaceuticals Act—Agreement: A unanimous-consent agreement was reached providing for further consideration of S. 812, to amend the Federal Food, Drug, and Cosmetic Act to provide greater access to affordable pharmaceuticals, at 2 p.m., on Monday, July 22, 2002, with the time until 6 p.m. equally divided between the two managers or their designees. **Page S7126**

Measures Referred:

Page S7101

Statements on Introduced Bills/Resolutions:

Pages S7104–26

Additional Statements:

Pages S7100–01

Adjournment: Senate met at 9:30 a.m., and adjourned at 12:12 p.m., until 2 p.m., on Monday, July 22, 2002. (For Senate's program, see the remarks of the Acting Majority Leader in today's Record on page S7126).

Committee Meetings

No committee meetings were held.

House of Representatives

Chamber Action

The House was not in session today. It will meet at 12:30 p.m. on Monday, July 22 for morning-hour debate.

Committee Meetings

DOE'S ACCELERATED CLEANUP PROGRAM

Committee on Energy and Commerce: Subcommittee on Oversight and Investigations held a hearing titled "A Review of DOE's Accelerated Cleanup Program and State-Based Compliance Agreements." Testimony was heard from Jesse Robertson, Assistant Secretary, Environmental Management, Department of Energy; Gary Jones, Director, Natural Resources and Environment Issues, GAO; Michael Wilson, Program Manager, Nuclear and Mixed Waste Program, Department of Ecology, State of Washington; Kathleen Trever, Coordinator/Manager, Ineel Oversight Program, State of Idaho; and John Owsley, Director, Oversight Division, Department of Energy and Conservation, State of Tennessee.

EXPECTED AUTHORIZATION REQUEST— WORLD BANK-INTERNATIONAL DEVELOPMENT ASSOCIATION

Committee on Financial Services: Subcommittee on International Monetary Policy and Trade held a hearing on the expected authorization request for the U.S. Participation in the World Bank-International Development Association. Testimony was heard from public witnesses.

VOTING REPRESENTATION IN CONGRESS

Committee on Government Reform: Subcommittee on the District of Columbia held a hearing on Voting Representation in Congress. Testimony was heard from the following officials of the District of Columbia: Anthony Williams, Mayor; Linda Cropp, Chairman, Council; and Ray Browne, Shadow Representative; Eugene Boyd, Analyst, American National Government, Congressional Research Service, Library of Congress; and public witnesses.

HOMELAND SECURITY ACT

Select Committee on Homeland Security: Ordered reported, as amended, H.R. 5005, Homeland Security Act of 2002.

CONGRESSIONAL PROGRAM AHEAD

Week of July 22 through July 27, 2002

Senate Chamber

On *Monday*, At 2 p.m., Senate will resume consideration of S. 812, Greater Access to Affordable Pharmaceuticals Act. On *Tuesday*, at 10:45 a.m., Senate will vote on the motion to close further debate on the nomination of Richard H. Carmona, of Arizona, to be Medical Director in the Regular Corps of the Public Health Service, subject to qualifications therefor as provided by law and regulations, and to be Surgeon General of the Public Health Service, Department of Health and Human Services. Also, Senate will continue consideration of S. 812, Greater Access to Affordable Pharmaceuticals Act, and at 2:45 p.m., vote on a motion to waive the Budget Act with respect to Graham Amendment No. 4309; followed by a vote on a motion to waive the Budget Act with respect to Hatch (for Grassley) Amendment No. 4310.

During the balance of the week, Senate will consider any other cleared legislative and executive business, including appropriations bills and conference reports, when available.

Senate Committees

(Committee meetings are open unless otherwise indicated)

Committee on Appropriations: July 22, Subcommittee on Energy and Water Development, business meeting to mark up an original bill making appropriations for energy and water development for the fiscal year ending September 30, 2003, 12 p.m., S-128, Capitol.

July 23, Subcommittee on VA, HUD, and Independent Agencies, business meeting to mark up proposed legislation making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 2003, 2:30 p.m., SD-138.

July 23, Subcommittee on District of Columbia, business meeting to mark up proposed legislation making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against revenues of said District for the fiscal year ending September 30, 2003, 2:30 p.m., SD-116.

July 23, Subcommittee on Transportation, business meeting to mark up proposed legislation making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 2003, 4 p.m., SD-124.

July 23, Subcommittee on Agriculture, Rural Development, and Related Agencies, business meeting to mark

up proposed legislation making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2003, 5 p.m., SD-192.

July 24, Full Committee, business meeting to mark up an original bill making appropriations for energy and water development for the fiscal year ending September 30, 2003, 10 a.m., S-128, Capitol.

July 25, Full Committee, business meeting to mark up proposed legislation making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 2003; proposed legislation making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against revenues of said District for the fiscal year ending September 30, 2003; proposed legislation making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 2003; and proposed legislation making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2003, 2 p.m., S-128, Capitol.

Committee on Armed Services: July 25, to hold hearings to examine the national security implications of the Strategic Offensive Reductions Treaty, 9:30 a.m., SD-106.

July 26, Full Committee, to hear and consider the nominations of Lt. Gen. James T. Hill, USA, for appointment to the grade of general and assignment as Commander in Chief, United States Southern Command; and Vice Adm. Edmund P. Giambastiani Jr., USN, for appointment to the grade of admiral and assignment as Commander in Chief, United States Joint Forces Command, 9:30 a.m., SR-222.

Committee on Banking, Housing, and Urban Affairs: July 23, to hold hearings on the nominations of Cynthia A. Glassman, of Virginia, and Roel C. Campos, of Texas, each to be a Member of the Securities and Exchange Commission, 10 a.m., SD-538.

July 24, Subcommittee on Housing and Transportation, to hold oversight hearings to examine management challenges of the Department of Housing and Urban Development, 2:30 p.m., SD-538.

Committee on Commerce, Science, and Transportation: July 23, business meeting to consider the nominations of Steven Robert Blust, of Florida, to be a Federal Maritime Commissioner; Kathie L. Olsen, of Oregon, and Richard M. Russell, of Virginia, each to be an Associate Director of the Office of Science and Technology Policy; Frederick D. Gregory, of Maryland, to be Deputy Administrator of the National Aeronautics and Space Administration; Jonathan Steven Adelstein, of South Dakota, to be a Member of the Federal Communications Commission; and one United States Coast Guard promotion list, 10:45 a.m., S-216, Capitol.

July 24, Subcommittee on Communications, to hold hearings to examine competition and the cable industry, 10 a.m., SR-253.

July 24, Subcommittee on Science, Technology, and Space, to hold hearings to examine women in science and technology, 2:30 p.m., SR-253.

July 25, Full Committee, to hold hearings to examine aviation security transition, 9:30 a.m., SR-253.

Committee on Energy and Natural Resources: July 23, Subcommittee on National Parks, to hold hearings on S. 2494, to revise the boundary of the Petrified Forest National Park in the State of Arizona; S. 2598, to enhance the criminal penalties for illegal trafficking of archaeological resources; S. 2727, to provide for the protection of paleontological resources on Federal lands; and H.R. 3954, to designate certain waterways in the Caribbean National Forest in the Commonwealth of Puerto Rico as components of the National Wild and Scenic Rivers System, 2:30 p.m., SD-366.

July 24, Full Committee, to hold hearings to examine issues surrounding the Federal Energy Regulatory Commission, 3 p.m., SD-366.

July 25, Subcommittee on Public Lands and Forests, to hold hearings to examine S. 2672, to provide opportunities for collaborative restoration projects on National Forest System and other public domain lands, 2:30 p.m., SD-366.

Committee on Environment and Public Works: July 24, with the Committee on Foreign Relations, to hold joint hearings to examine implementation of environmental treaties, 10:30 a.m., SD-406.

Committee on Foreign Relations: July 23, to resume hearings on the Treaty Between the United States of America and the Russian Federation on Strategic Offensive Reductions, Signed at Moscow on May 24, 2002 (Treaty Doc.107-8), 10:30 a.m., SD-419.

July 24, Full Committee, with the Committee on Environment and Public Works, to hold joint hearings to examine implementation of environmental treaties, 10:30 a.m., SD-406.

July 25, Full Committee, business meeting to consider the Convention on the Elimination of All Forms of Discrimination Against Women, adopted by the United Nations General Assembly on December 18, 1979, and signed on behalf of the United States of America on July 17, 1980 (Treaty Doc. 96-53); Agreement Establishing the South Pacific Regional Environment Programme, done at Apia on June 16, 1993 (Treaty Doc. 105-32); Treaty Between the Government of the United States of America and the Government of Niue on the Delimitation of a Maritime Boundary, signed in Wellington, May 13, 1997 (Treaty Doc. 105-53); S. Res. 296, recognizing the accomplishment of Ignacy Jan Paderewski as a musician, composer, statesman, and philanthropist and recognizing the 10th Anniversary of the return of his remains to Poland; S. Res. 300, encouraging the peace process in Sri Lanka; and pending nominations, 10:30 a.m., SD-419.

Committee on Governmental Affairs: July 23, Permanent Subcommittee on Investigations, to hold hearings to examine the role of financial institutions in the collapse of Enron Corporation, focusing on the contribution to Enron's use of complex transactions to make the company

look better financially than it actually was, 9:30 a.m., SD-106.

July 24, Full Committee, business meeting to consider withdrawals of amendments on S. 2452, to establish the Department of National Homeland Security and the National Office for Combating Terrorism; and the nominations of James E. Boasberg, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia; Michael D. Brown, of Colorado, to be Deputy Director of the Federal Emergency Management Agency; and Mark W. Everson, of Texas, to be Deputy Director for Management, Office of Management and Budget, 9:30 a.m., SD-342.

Committee on Health, Education, Labor, and Pensions: July 24, business meeting to consider S. 2328, to amend the Public Health Service Act and the Federal Food, Drug, and Cosmetic Act to ensure a safe pregnancy for all women in the United States, to reduce the rate of maternal morbidity and mortality, to eliminate racial and ethnic disparities in maternal health outcomes, to reduce pre-term, labor, to examine the impact of pregnancy on the short and long term health of women, to expand knowledge about the safety and dosing of drugs to treat pregnant women with chronic conditions and women who become sick during pregnancy, to expand public health prevention, education and outreach, and to develop improved and more accurate data collection related to maternal morbidity and mortality; S. 2394, to amend the Federal Food, Drug, and Cosmetic Act to require labeling containing information applicable to pediatric patients; S. 2499, to amend the Federal Food, Drug, and Cosmetic Act to establish labeling requirements regarding allergenic substances in food; S. 1998, to amend the Higher Education Act of 1965 with respect to the qualifications of foreign schools; proposed legislation authorizing funds for the Child Care and Development Block Grant; and the nominations of Edward J. Fitzmaurice, Jr., of Texas, and Harry R. Hoglander, of Massachusetts, each to be a Member of the National Mediation Board, 9:30 a.m., SD-430.

July 25, Full Committee, to hold hearings to examine violence against women in the workplace, focusing on the extent of the problem and government and business responses, 10 a.m., SD-430.

July 26, Subcommittee on Children and Families, to hold hearings to examine birth defect screening, 10 a.m., SD-430.

Committee on Indian Affairs: July 24, to hold hearings on S. 1344, to provide training and technical assistance to Native Americans who are interested in commercial vehicle driving careers, 10 a.m., SR-485.

July 25, Full Committee, to hold hearings to examine the July 2, 2002 Report of the Department of the Interior to Congress on historical accounting of Individual Indian Money Accounts, 10 a.m., SR-485.

Select Committee on Intelligence: July 23, to hold joint closed hearings with the House Permanent Select Committee on Intelligence to examine events surrounding September 11, 2001, 10 a.m., S-407, Capitol.

July 25, Full Committee, to hold joint closed hearings with the House Permanent Select Committee on Intel-

ligence to examine events surrounding September 11, 2001, 10 a.m., S-407, Capitol.

Committee on the Judiciary: July 23, to hold hearings to examine pending nominations, 10 a.m., SD-226.

July 23, Full Committee, to hold hearings on S. 2480, to amend title 18, United States Code, to exempt qualified current and former law enforcement officers from state laws prohibiting the carrying of concealed handguns, 2 p.m., SD-226.

July 24, Subcommittee on Crime and Drugs, to hold hearings to examine corporate responsibility, focusing on criminal sanctions to deter wrong doing, 2:30 p.m., SD-226.

July 25, Full Committee, to hold oversight hearings to examine the Department of Justice, 10 a.m., SD-226.

Committee on Small Business and Entrepreneurship: July 24, business meeting to mark up pending legislation, 9 a.m., SR-428A.

Committee on Veterans' Affairs: July 24, to hold hearings to examine mental health care issues, 9:30 a.m., SR-418.

House Chamber

To be announced

House Committees

Committee on Armed Services, July 23, Special Oversight Panel on the Merchant Marine, hearing on commercial shipbuilding in the United States and the Maritime Security Program, 9 a.m., 2212 Rayburn.

Committee on Education and the Workforce, July 23, hearing on "What's Next for School Choice?" 10 a.m., 2175 Rayburn.

July 23, Subcommittee on Workforce Protections, hearing on "Compulsory Union Dues and Corporate Campaigns," 2 p.m., 2175 Rayburn.

July 24, full Committee, hearing on "Implementation of the No Child Left Behind Act," 2175 Rayburn.

Committee on Energy and Commerce, July 23, Subcommittee on Health, hearing titled "Insurance Coverage of Mental Health Benefits," 10 a.m., 2123 Rayburn.

July 25, Subcommittee on Health, hearing entitled "Examining Prescription Drug Reimportation: a Review of a Proposal to Allow Third Parties to Reimport Prescription Drugs," 1 p.m., 2123 Rayburn.

July 25, Subcommittee on Oversight and Investigations, hearing entitled "The U.S. National Climate Change Assessment: Do the Climate Models Project a Useful Picture of Regional Climate?" 9:30 a.m., 2322 Rayburn.

Committee on Financial Services, July 23, Subcommittee on Capital Markets, Insurance, and Government Sponsored Enterprises, hearing regarding the Office of Federal Housing Enterprise Oversight's (OFHEO) risk-based capital stress test for Fannie Mae and Freddie Mac, 2 p.m., 2128 Rayburn.

July 24, Subcommittee on Capital Markets, Insurance, and Government Sponsored Enterprises, hearing entitled "Restoring Investor Confidence: The Response of the Market Regulators," 10 a.m., 2128 Rayburn.

July 24, Subcommittee on Financial Institutions and Consumer Credit, hearing on H.R. 3424, Community Choice in Real Estate Act, 2 p.m., 2128 Rayburn.

July 25, Subcommittee on Financial Institutions and Consumer Credit, hearing entitled "China Bonds: Honoring Obligations," 2 p.m., 2128 Rayburn.

July 25, Subcommittee on International Monetary Policy and Trade, hearing on the expected authorization requests on the U.S. participation in the World Bank-International Development Association and the African Development Fund, 1:30 p.m., 2220 Rayburn.

July 25, Subcommittee on Oversight and Investigations, hearing entitled "Reaching Agreement on Holocaust Claims," 10 a.m., 2128 Rayburn.

Committee on Government Reform, July 22, Subcommittee on Energy Policy, Natural Resources and Regulatory Affairs, hearing entitled "California's Energy Market: The Case of Enron and Perot Systems," 2 p.m., 2154 Rayburn.

July 23, Subcommittee on National Security, Veterans' Affairs and International Relations, hearing on Homeland Security: Protecting Strategic Ports, 10 a.m., 2154 Rayburn.

July 24, Subcommittee on Government Efficiency, Financial Management and Intergovernmental Relations, oversight hearing on "Cyber-terrorism: Is the Nation's Critical Infrastructure Adequately Protected?" 10 a.m., 2154 Rayburn.

July 24, Subcommittee on Technology and Procurement Policy, hearing entitled "An Oversight Hearing to Review the Findings of the Commercial Activities Panel," 1 p.m., 2154 Rayburn.

July 25, full Committee, hearing on "Diet, Physical Activity, and Dietary Supplements—the Scientific Basis for Improving Health, Saving Money, and Preserving Personal Choice," 10 a.m., 2154 Rayburn.

July 26, Subcommittee on Criminal Justice, Drug Policy, and Human Resources, hearing on "Impact of Potential Restrictions on Anti-Drug Media Campaign Contractors," 10 a.m., 2203 Rayburn.

Committee on International Relations, July 23, Subcommittee on Africa, to mark up the following measures: H. Con. Res. 287, expressing the sense of Congress relating to efforts of the Peace Parks Foundation in the Republic of South Africa to facilitate the establishment and development of transfrontier conservation efforts in southern Africa; and H. Con. Res. 421, recognizing the importance of inheritance rights of women in Africa, 2 p.m., 2172 Rayburn.

July 23, Subcommittee on East Asia and the Pacific, hearing on Pacific Island Nations: Current Issues and U.S. Interests, 11 a.m., 2200 Rayburn.

July 24, full Committee, hearing on Economic Development and Integration as a Catalyst for Peace: A "Marshall Plan" for the Middle East, 10:15 a.m., 2172 Rayburn.

July 24, Subcommittee on Europe, to mark up the following measures: H. Con. Res. 164, expressing the sense of Congress that security, reconciliation, and prosperity for all Cypriots can be best achieved within the context of membership in the European Union which will provide

significant rights and obligations for all Cypriots; H. Con. Res. 437, recognizing the Republic of Turkey for its cooperation in the campaign against global terrorism, for its commitment of forces and assistance to Operation Enduring Freedom and subsequent missions in Afghanistan, and for initiating important economic reforms to build a stable and prosperous economy in Turkey; H. Con. Res. 327, commending the republic of Turkey and the State of Israel for the continued strengthening of their political, economic, cultural, and strategic partnership and for their actions in support of the war on terrorism; and H. Con. Res. 345, expressing the sense of Congress that the Orthodox Theological School of Halki in the Republic of Turkey be reopened in order to promote religious freedom, 1 p.m., 2255 Rayburn.

July 24, Subcommittee on International Operations and Human Rights, to mark up the following measures: H. Con. Res. 349, calling for an end to the sexual exploitation of refugees; and H. Con. Res. 351, expressing the sense of Congress that the United States should condemn the practice of execution by stoning as a gross violation of human rights, 2:30 p.m., 2255 Rayburn.

July 24, Subcommittee on Western Hemisphere, hearing on the Coffee Crisis in the Western Hemisphere, 2:30 p.m., 2200 Rayburn.

July 25, full Committee, hearing on Loose Nukes, Biological Terrorism, and Chemical Warfare: Using Russian Debt to Enhance Security, 10:45 a.m., 2172 Rayburn.

Committee on the Judiciary, July 23, to mark up the following bills: H.R. 1452, Family Reunification Act of 2001; H.R. 4757, Our Lady of Peace Act; H.R. 3995, Housing Affordability for America Act of 2002; and H.R. 4600, Help Efficient, Accessible, Low Cost, Timely Health Care (HEALTH) Act of 2002, 10 a.m., 2141 Rayburn.

July 23, Subcommittee on Courts, the Internet and Intellectual Property, hearing on H.R. 1203, Ninth Circuit Court of Appeals Reorganization Act of 2001, 3 p.m., 2141 Rayburn.

Committee on Resources, July 23, Subcommittee on Energy and Mineral Resources, oversight hearing on Availability of Bonds to Meet Federal Requirement for Mining, Oil and Gas Projects, 10 a.m., 1334 Longworth.

July 24, full Committee, to consider pending business, 10 a.m., 1324 Longworth.

July 25, Subcommittee on Energy and Mineral Resources, hearing on H.R. 5156, to amend the Outer Continental Shelf Lands Act to protect the economic and land use interests of the Federal Government in the management of outer continental shelf lands for energy-related and certain other purposes, 2 p.m., 1334 Longworth.

July 25, Subcommittee on Fisheries Conservation, Wildlife and Oceans, to mark up H.R. 4781, Marine Mammal Protection Act Amendments of 2002, 2 p.m., 1324 Longworth.

July 25, Subcommittee on Forests, and Forests Health, the Subcommittee on National Parks, Recreation and Public Lands, and the Subcommittee on Fisheries Conservation and Oceans, joint hearing on the following bills: H.R. 2386, Outfitters Policy Act of 2002; H.R. 1811, PILT and Refuge Revenue Sharing Permanent Funding

Act; and H.R. 5081, Property Tax Endowment Act of 2002; 10 a.m., 1334 Longworth.

July 25, Subcommittee on Forests and Forest Health, hearing on the following: a measure to direct the Secretary of Agriculture to convey real property in the Dixie National Forest in the State of Utah; and H.R. 5032, to authorize the Secretary of Agriculture to convey National Forest System lands in the Mendocino National Forest, California, to authorize the use of the proceeds from such conveyances for National Forest purposes, 10 a.m., 1334 Longworth.

July 25, Subcommittee on Water and Power, hearing on the following bills: H.R. 4910, to authorize the Secretary of the Interior to revise a repayment contract with the Tom Green County Water Control and Improvement District No. 1, San Angelo project, Texas; and H.R. 5123, to address certain matter related to Colorado River water management and the Salton Sea by providing funding for habitat enhancement projects at the Salton Sea, 10 a.m., 1324 Longworth.

Committee on Rules, July 22, to consider the Conference Report to accompany H.R. 4775, the 2002 Supplemental Appropriations Act for Further Recovery From and Response to Terrorist Attacks on the United States, 7 p.m., H-313 Capitol.

July 23, to consider the following: H.R. 4628, Intelligence Authorization Act for Fiscal Year 2003; and H.R. 4965, Partial-Ban Abortion Ban Act of 2002, 5 p.m., H-313 Capitol.

Committee on Science, July 24, Subcommittee on Environment, Technology and Standards, hearing on Satellite Data Management at NOAA, 10 a.m., 2318 Rayburn.

July 25, Subcommittee on Energy, hearing on Future Direction of the Department of Energy's Office of Science, 10 a.m., 2318 Rayburn.

Committee on Small Business, July 23, hearing on "Unintended Consequences of Increased Steel Tariffs on American Manufacturers," 10 a.m., 2360 Rayburn.

Committee on Transportation and Infrastructure, July 22, Subcommittee on Economic Development, Public Buildings and Emergency Management, to mark up the following: U.S. General Services Administration's Fiscal Year 2003 Capital Investment Program: Courthouse Construction Prospectuses, Lease Prospectuses, and other pending business, 6 p.m., 2167 Rayburn.

July 23, Subcommittee on Aviation, hearing on Aviation Security, 10 a.m., and, executive, to continue hearings on Aviation Security, 2 p.m., 2167 Rayburn.

July 24, full Committee, to consider the following: Several U.S. Army Corps of Engineers Survey resolutions;

GSA Fiscal Year 2003 Capital Investment and Leasing Program; Courthouse Construction Prospectus and Lease Prospectus Resolutions; H. Con. Res. 442, recognizing the American Road and Transportation Builders Associations for reaching its 100th Anniversary and for the many vital contributions of its members in the transportation construction industry to the American economy and quality of life through the multi-modal transportation infrastructure network its members have designed, built, and managed over the past century; H.R. 4727, Dam Safety and Security Act of 2002; and H.R. 5157, to amend section 5307 of title 49, United States Code, to allow transit systems in urbanized areas that, for the first time, exceeded 200,000 in population according to the 2000 census to retain flexibility in the use of Federal transit formula grants in fiscal year 2003, 11 a.m., 2167 Rayburn.

July 25, Subcommittee on Highways and Transit, oversight hearing on Transportation Solutions in a Community Context: the Need for Better Transportation Systems for Everyone, 10 a.m., 2167 Rayburn.

Committee on Veterans' Affairs, July 24, and 25, Subcommittee on Benefits, hearings on the following bills: H.R. 5111, Servicemember's Civil Relief Act; and H.R. 4017, Soldiers' and Sailors' Civil Relief Equity Act, 10 a.m., 334 Cannon.

Committee on Ways and Means, July 23, Subcommittee on Health, hearing on Medicare's Geographic Cost Adjustors, 2 p.m., 1100 Longworth.

July 25, Subcommittee on Human Resources, hearing on fraud and abuse in the Supplemental Security Income (SSI) program, 10 a.m., B-318 Rayburn.

Permanent Select Committee on Intelligence, July 24, executive, on Global Hot Spots, 1:30 p.m., H-405 Capitol.

Joint Meetings

Joint Meetings: July 23, Senate Select Committee on Intelligence, to hold joint closed hearings with the House Permanent Select Committee on Intelligence to examine events surrounding September 11, 2001, 10 a.m., S-407, Capitol.

Joint Meetings: July 25, Senate Select Committee on Intelligence, to hold joint closed hearings with the House Permanent Select Committee on Intelligence to examine events surrounding September 11, 2001, 10 a.m., S-407, Capitol.

Joint Economic Committee: July 24, to hold hearings to examine the measuring of economic change, 10 a.m., 311, Cannon Building.

Next Meeting of the SENATE

2 p.m., Monday, July 22

Next Meeting of the HOUSE OF REPRESENTATIVES

12:30 p.m., Monday, July 22

Senate Chamber

Program for Monday: Senate will resume consideration of S. 812, Greater Access to Affordable Pharmaceuticals Act.

House Chamber

Program for Monday: To be announced.



Congressional Record

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